

ELECTRONIC TRANSACTIONS LEGISLATION AMENDMENT (GOVERNMENT TRANSACTIONS) BILL 2017

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Bronnie Taylor, on behalf of the Hon. Don Harwin .

Second Reading

The Hon. BRONNIE TAYLOR (15:36): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

I am pleased to introduce the Electronic Transactions Legislation Amendment (Government Transactions) Bill 2017. This bill is an important step forward in modernising the way the New South Wales Government operates. Its main purpose is to enable digital transactions between the Government and citizens, businesses or other organisations where they are not currently permitted or unclear. The bill, more simply known as the digital Government bill, supports the Government's commitment to continually deliver faster, more convenient and more efficient services to the public through digital channels. It seeks to make sure that digital transactions and processes are an option across a wider range of government operations.

In New South Wales, residents and businesses conduct more than 40 million transactions each year. According to a 2015 Deloitte Access Economics report on digital government transformation, approximately 40 per cent of Australian Government transactions—Commonwealth and State—are still being conducted by traditional, non-digital channels. Reducing this figure to 20 per cent over a 10-year period would realise productivity, efficiency and other benefits to Government worth around \$18 billion, with benefits to the public of around \$9 billion, for up-front costs of approximately \$6 billion.

The Government has a target for 70 per cent of government transactions to be conducted by digital channels by 2019. Accordingly, legislation governing government transactions and processes should be fit for purpose in a digital age, simple and easy to apply in a digital context. The digital government bill proposes action on two fronts. First, it will modernise 53 Acts and five regulations that currently contain requirements for traditional, outdated, or paper-based processes. These amendments will make it clear that interacting with the Government digitally is permitted. Secondly, it will amend the Road Transport Act 2013 to provide for a trial of the digital driver licence prototype. Delivering a digital driver licence is a longstanding commitment of the Government. This legislation will allow us to test the technology that will make it happen in a live environment. The bill will remove legislative constraints to digital government.

New South Wales has an existing legislative framework that allows many forms of digital transactions to take place even when the legislation does not specifically provide for them. Section 7 of the Electronic Transactions Act 2000 provides that a transaction is not invalid because it took place wholly or partly electronically.

Under these provisions if a person is required under a New South Wales law to produce a document that is in paper form, this requirement can be met electronically provided that, among other things, the recipient consents and a reliable electronic method is used. However, there are a range of exemptions to the Electronic Transactions Act. The bill focuses on these areas of exemption, and makes specific provisions to allow digital transactions and processes to take place.

A range of legislation currently requires that documents and notices be served "personally or by post". Schedule 1 to the bill amends requirements for documents to be served only in this way, allowing for certain documents and notices to be sent electronically, for example by email, with the consent of the individual. Amendments to 39 Acts, and one regulation provides for electronic service delivery as another option in addition to serving documents personally or by post. The amendments are consistent with efforts across government to increase the channels of communication and service delivery available, such as amendments to the Fines Act 1996 that allow the option of issuing electronic penalty notices. I note that the amendments will not affect requirements for serving documents in relation to court proceedings and are focused on government transactions. A range of

legislation requires that certain information is verified by statutory declaration. As a paper-based process, statutory declarations can be a barrier to an end-to-end digital process.

Schedule 2 to the bill amends requirements for information provided in forms, applications or communications with government to be verified by statutory declaration. The bill removes this potential barrier in eight Acts and three regulations by allowing for information, where appropriate, to be provided in an approved electronic form as an alternative option. I note that these amendments do not affect current laws governing the offence of providing false or misleading information or documents to a government official or in connection to compliance with a law of the State. The amendments will also not change any current provisions in relation to documents that affect the rights of multiple parties, such as the transfer of real property or the creation of a power of attorney or a will. These amendments ensure that legislation does not constrain opportunities for government agencies to provide simpler, more convenient forms and application processes.

A range of legislation requires that the government, or an authority of the State, publishes certain notices, statements and information, implying that this should occur in a printed format. Schedule 3 to the bill amends requirements for notices to be published in a newspaper to allow for accessible online formats. Amendments to four Acts clarify that information can be published in a newspaper, whether published in print or a publicly accessible website, or a publicly accessible website that is appropriate to cause the notice to come to the attention of the public or intended persons. While only four Acts are addressed in this bill, there are at least 70 more examples of this in legislation across government that will be addressed. The bill modernises legislation by allowing the option of advertising government notices online, allowing government to move away from traditional paper-based processes and reach out to the community through multiple channels in a comparable manner that can be more efficient. A range of legislation refers to outdated business practices, such as reliance on photocopies of records.

Schedule 4 to the bill amends explicit references to photocopied or paper records, or phrases that imply manual handling of documents. Amendments to three Acts and regulations will update miscellaneous provisions in line with contemporary business practices. This will ensure that legislation referring to business processes is simpler, clearer and relevant when describing electronic methods of signing and recording information. In addition to making small-scale legislative changes to more than 50 Acts, the bill also takes a major step towards delivering on the New South Wales Government's commitment to offer a digital driver licence [DDL] by 2019. Over the longer term, the DDL can provide a range of benefits for licence holders from improved convenience and faster licence checks to reduced risks of identity theft. The legislative framework for driver licensing is complex, and when it was drafted there was no reason to consider a DDL.

Schedule 5 to the bill amends the Road Transport Act 2013 to enable the Department of Finance, Services and Innovation to conduct a trial of a prototype DDL. The amendment will insert a new part concerning a digital driver licence trial into chapter 3 of the Road Transport Act, which deals with driver licensing. Under this part, new section 61A defines a digital driver licence. The prototype will be an opt-in, digital representation of a person's driver licence that will be accessed via the Service NSW app on mobile devices. New section 61B sets out the purpose of a digital driver licence trial, and provides the Ministers responsible for police, finance, services and property, and roads, maritime and freight with the power to prescribe other purposes by regulation. New section 61C limits the duration of this initial digital driver licence trial.

New sections 61D and 61E provide for the use of the digital driver licence and participation in the trial. Terms and conditions of the trial will restrict the use of the digital driver licence, allow for only eligible licence holders to participate and enable the Department of Finance, Services and Property to revoke a participant's authorisation to participate in the trial. The relationship between the digital driver licence, relevant police powers, and a physical card driver licence under the Road Transport Act 2013 is also clarified.

New section 61F addresses restrictions in the Road Transport Act 2013 concerning the use and release of driver licence information and photographs. The amendment allows driver licensing information and photographs to be securely released by Roads and Maritime Services to the Department of Finance, Services and Innovation and Service NSW to create a digital driver licence and enable licence holders, via a Service NSW app, to display the digital driver licence. These

amendments are required to enable licence holders to be provided with access to their own licensing information and photographs for the purposes of a digital driver licence prototype.

It is important to note that the trial will be designed to ensure that the privacy and security of personal information is strictly maintained. The New South Wales Privacy Commissioner has been consulted on these amendments and the Department of Finance, Services and Innovation will continue to work closely with the commissioner on this program. Trialling the digital driver licence first is intended to ensure that successive releases are guided by customer feedback and ongoing evaluation. This approach also reduces costs and mitigates risks by starting small, initially targeting a limited number of participants. A trial using "live" licensing data is critical to fully test the use, functionality and customer benefits of a digital driver licence before rolling it out across the State to ensure that the end product is fit for purpose, delivers value and meets customer needs.

The bill also makes a minor amendment to the Strata Schemes Management Act 2015 relating to the Strata Defects Scheme, postponing commencement of certain provisions in the Act and regulation from 1 July 2017 to 1 January 2018. This amendment acknowledges that a number of issues have arisen, which mean that it is prudent to delay commencement of the scheme. Since 2016 Standards Australia has been working with a group of industry experts to develop a new national standard known as AS4349.2 – Group titled properties. The standard is important as it will form part of the defect inspection report that is applied by the scheme. Unfortunately, the standard is not complete and unlikely to be finalised by Standards Australia until after July 2017.

Furthermore, over the past five months NSW Fair Trading has been engaging with peak bodies in the legal, strata and building sectors to prepare for the scheme. NSW Fair Trading acknowledges stakeholders' continued support for the scheme but also notes feedback that the July 2017 commencement date would not afford some participants sufficient time to develop their supporting processes and procedures. The amendments will mean that the scheme will only apply to construction contracts signed or work that commences from 1 January 2018. This bill will help the Government achieve its vision for better government services that deliver value and benefits for the people of New South Wales. It will ensure that the public is better served through simpler, more efficient and modern government transactions. It reinforces the reputation of New South Wales as the centre for innovation. I commend the bill to the House.

Debate adjourned.