

SECTION B: RESPONSES TO PREVIOUS DIGESTS

19. MINISTERIAL CORRESPONDENCE — CORONERS AMENDMENT BILL 2003

Introduced: 29 October 2003
House: Legislative Assembly
Minister: The Hon R J Debus
Portfolio: Attorney General

Background

1. The Committee reported on the *Coroners Amendment Bill 2003* in Legislation Review Digest No 5 of 10 November 2003.
2. The Committee noted that the Act was to commence by proclamation and therefore wrote to the Attorney seeking advice as to the reasons why commencement by proclamation was necessary and the likely commencement date of the Act.

Minister's Reply

3. In a reply dated 25 November 2003 (below), the Attorney responded to the Committee, advising that prior to the commencement of the Act, coronial subpoena forms need to be designed and distributed, computer systems need to be enhanced and all Coroners Court staff have to be fully trained to ensure a seamless transition from the old to the new.
4. The Attorney indicated that it is proposed to commence the Act as early as possible in December 2003.

Committee's Response

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| 5. The Committee thanks the Attorney for his reply. |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref: LRC473/CP3732

The Hon R J Debus MP
Attorney General
Level 36 Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Attorney

Coroners Amendment Bill 2003

The Committee has considered this Bill under s 8A of the *Legislation Review Act 1987* and notes that it is to commence by proclamation.

The Committee is of the view that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act at all. While there may be good reasons why such discretion may be required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

I would appreciate it if you would advise the Committee why it is necessary for this Bill to commence on proclamation and indicate a time frame within which the Act will commence after assent.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Collier', written over a large, stylized circular flourish.

**BARRY COLLIER MP
CHAIRPERSON**



NEW SOUTH WALES

ATTORNEY GENERAL

Mr Barry Collier MP
Chairperson
Legislation Review Committee
Parliament of NSW
Macquarie St
SYDNEY NSW 2000



25 NOV 2003

Dear Chairperson

I am writing in response to your request for advice about the commencement of the *Coroners Amendment Act 2003*. It is customary with provisions of this nature, for the Department to liaise with the head of the affected jurisdiction to determine the best starting date for the new procedures.

The amendments require coronial subpoena forms to be designed and distributed, computer systems to be enhanced and all Coroners Court and Local Court staff to be fully trained to ensure a seamless transition from the old to the new.

Other essential partners in the provision of coronial services such as the police, the Legal Aid Commission, the Director of Public Prosecutions and the Department of Health also need to be consulted about the commencement so that all the agencies who deliver services to the public are aware of, and fully prepared to implement the changes.

The State Coroner, the Chief Magistrate and the Director of Local Courts concur with the proposal to commence these provisions as early as possible in December 2003.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Bob Debus', written over a horizontal line.

BOB DEBUS

Level 36, Governor Macquarie Tower,
1 Farrer Place, Sydney NSW 2000
Telephone: (02) 9228 3071

Postal: PO Box A290, Sydney South NSW 1232

Facsimile: (02) 9228 3166

20. MINISTERIAL CORRESPONDENCE — COURTS LEGISLATION AMENDMENT BILL 2003

Introduced: 31 October 2003
House: Legislative Assembly
Minister: The Hon R J Debus MP
Portfolio: Attorney General

Background

1. The Committee reported on the *Courts Legislation Amendment Bill 2003* in Legislation Review Digest No 5 of 10 November 2003.
2. The Committee noted that the Act was to commence by proclamation and therefore wrote to the Attorney seeking his advice as to why it was necessary to commence on proclamation and an indication of a time frame within which the Act will commence.

Minister's Reply

3. In a reply received 25 November 2003 (below), the Attorney responded to the Committee, noting that the Bill amends nine separate statutes affecting the operation of the various courts in New South Wales, and that with provisions of this nature it is customary for the Department to liaise with the head of each jurisdiction to determine the best starting date for the new procedures.
4. The Attorney also advises that the amendments require forms to be designed or redesigned, computer systems to be enhanced and staff to be fully trained to ensure the seamless transition from the old to the new operational procedures.
5. It is anticipated that all provisions will commence by 1 January 2004.

Committee's Response

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| 6. The Committee thanks the Attorney for his reply. |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref: LRC484/CP3748

The Hon R J Debus MP
Attorney General
Level 36 Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Attorney

Courts Legislation Amendment Bill 2003

The Committee has considered this Bill under s 8A of the *Legislation Review Act 1987* and notes that it is to commence by proclamation.

The Committee is of the view that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act at all. While there may be good reasons why such discretion may be required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

I would appreciate it if you would advise the Committee why it is necessary for this Bill to commence on proclamation and indicate a time frame within which the Act will commence after assent.

Yours sincerely

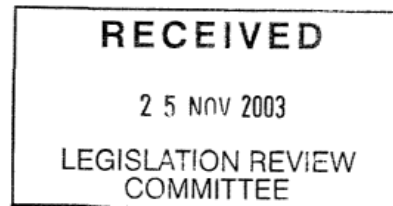
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**BARRY COLLIER MP
CHAIRPERSON**



ATTORNEY GENERAL

Mr Barry Collier MP
Chairperson
Legislation Review Committee
Parliament of NSW
Macquarie St
SYDNEY NSW 2000



Dear Mr Chairperson

I am writing in response to your enquiry asking why it is necessary to commence the *Courts Legislation Amendment Bill 2003* (the Bill) by proclamation. The Bill amends nine separate statutes affecting the operations of the Supreme Court, the District Court, the Local Court, the Industrial Relations Commission, the Land and Environment Court and the Sheriff's Office.

It is customary with provisions of this nature, for the Department to liaise with the head of each affected jurisdiction to determine the best starting date for the new procedures. The amendments require forms to be designed or redesigned, computer systems to be enhanced and staff to be fully trained to ensure a seamless transition from the old to the new operational procedures.

Other essential partners in the provision of justice services such as the police, the Legal Aid Commission, the Director of Public Prosecutor also need to be consulted about the commencement so that all the agencies who deliver justice services to the public are aware of, and fully prepared to implement the changes.

The amendments will be commenced as soon as the judiciary agree to a suitable date and as soon as training and system redesign is complete. At this stage, I would anticipate that all provisions will commence by 1 January 2004.

Yours faithfully

A handwritten signature in dark ink, appearing to be 'Bob Debus', with a stylized flourish at the end.

BOB DEBUS

Level 36, Governor Macquarie Tower,
1 Farrer Place, Sydney NSW 2000
Telephone: (02) 9228 3071

Postal: PO Box A290, Sydney South NSW 1232

Facsimile: (02) 9228 3166

21. MINISTERIAL CORRESPONDENCE — GAMING MACHINE AMENDMENT (MISCELLANEOUS) BILL 2003

Introduced: 19 September 2003
House: Legislative Assembly
Minister: The Hon G McBride MP
Portfolio: Gaming and Racing

Background

1. The Committee reported on the *Gaming Machine Amendment (Miscellaneous) Bill 2003* in Legislation Review Digest No 3 of 14 October 2003.
2. The Committee noted that the Act was to commence by proclamation and therefore wrote to the Minister seeking advice as to the reasons for commencement by proclamation and the likely commencement date of the Bill.

Minister's Reply

3. In a reply dated 25 November 2003 (below), the Minister responded to the Committee, indicating that the commencement of the Act is to coincide with the date that the Department of Gaming and Racing can implement administrative arrangements and update the operational systems to support the Act.
4. The Minister further advised that commencement will occur as soon as practicable after assent.

Committee's Response

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| 5. The Committee thanks the Minister for his reply. |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

10 October 2003

Our Ref:LRC421

The Hon. Grant McBride, MP
Minister for Gaming and Racing
Level 13
55 Hunter Street
Sydney NSW 2000

Dear Minister

Gaming Machines Amendment Bill 2003

The Committee has considered this Bill and notes that it is to commence by proclamation.

The Committee notes that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act at all. While there may be good reasons why such discretion may be required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

The Committee has resolved to seek your advice as to the reasons for commencement by proclamation and the likely commencement date of the Act.

Yours sincerely

A handwritten signature in black ink, appearing to read "Barry Collier".

Barry Collier MP
Chairperson

Parliament of New South Wales · Macquarie Street · Sydney NSW 2000 · Australia
Telephone (02) 9230 2899 · Facsimile (02) 9230 3052 · Email legislation.review@parliament.nsw.gov.au



Minister for Gaming and Racing

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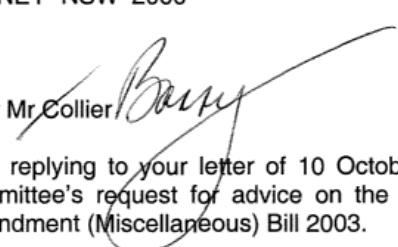
26 NOV 2003

LEGISLATION REVIEW
COMMITTEE

RML03/1915

25 NOV 2003

Mr Barry Collier MP
Chairperson
Legislation Review Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Collier 

I am replying to your letter of 10 October 2003 regarding the Legislation Review Committee's request for advice on the commencement of the Gaming Machines Amendment (Miscellaneous) Bill 2003.

I have noted the Committee's concerns about commencing this legislation by proclamation.

Given the technical and prescriptive nature of the proposed Miscellaneous Amendment Bill, it is considered appropriate to time the commencement, via proclamation, to coincide with the date that the Department of Gaming and Racing can implement administrative arrangements and update operational systems to support the Act. Commencement by proclamation also allows certainty as to the date that the measures will start, which allows an opportunity to advise industry of the changes.

It is intended that the amendments be commenced as soon as practicable after assent. I would like to assure you that it is not the intention that any of the amendments remain uncommenced.

I trust this information is of assistance to you.

Yours sincerely



Grant McBride, MP
Minister for Gaming and Racing

Level 13, 55 Hunter Street, Sydney 2000, NSW Australia
Telephone: (02) 9237 2555 • Facsimile: (02) 9237 2500 • Email: mindgr@dgr.nsw.gov.au

22. MINISTERIAL CORRESPONDENCE — INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT (ETHICS COMMITTEE) BILL 2003

Introduced: 31 October 2003
House: Legislative Assembly
Minister: The Hon R J Carr MP
Portfolio: Premier

Background

1. The Committee reported on the *Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003* in Legislation Review Digest No 5 of 10 November 2003.
2. The Committee noted that the Act was to commence by proclamation and therefore wrote to the Premier seeking advice as to the reason this Bill is to commence by proclamation, and the likely commencement date of the Bill.

Premier's Reply

3. In a reply dated 25 November 2003 (below), the Premier responded to the Committee, advising that the current Standing Ethics Committee will be abolished as soon as the Act commences and that as a result, some flexibility is required to ensure that the appropriate arrangements are in place to ensure that the resolution is ready, and that the transfer of functions between the current Committee and the new committee is seamless.
4. The Premier indicated that the Government intends to proclaim the Act as soon as possible after the resolution and transfer arrangements are finalised.

Committee's Response

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| 5. The Committee thanks the Premier for his reply. |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref: LRC484/CP3748

The Hon R J Carr MP
Premier
Level 40 Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Premier

Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003

The Committee has considered this Bill under s 8A of the *Legislation Review Act 1987* and notes that it is to commence by proclamation.

The Committee is of the view that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act at all. While there may be good reasons why such discretion may be required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

I would appreciate it if you would advise the Committee why it is necessary for this Bill to commence on proclamation and indicate a time frame within which the Act will commence after assent.

Yours sincerely

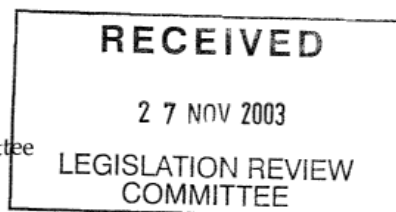
A handwritten signature in black ink, appearing to read "Barry Collier".

**BARRY COLLIER MP
CHAIRPERSON**



Premier of New South Wales
Australia

Mr Barry Collier MP
Chairperson
Legislation Review Committee
Parliament House
Macquarie Street
Sydney NSW 2000



25 NOV 2003

Dear Mr Collier

I refer to your letter of 7 November 2003 and the Report of the Legislation Review Committee Number 5 of 2003 concerning the *Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003*.

The Committee has requested advice as to the reasons why the proposed Act will not commence on assent and for an indication as to the likely date of commencement.

As the Committee may be aware, the Bill recently passed through Parliament. The Bill provides for the establishment by resolution of a Privileges and Ethics Committee. The current Standing Ethics Committee will be abolished as soon as the Act commences. As such, some flexibility is required to ensure that appropriate arrangements are in place to ensure that the resolution is ready and the transfer of functions between the current Committee and the new Committee is seamless.

In relation to the likely date of commencement, the Government intends to proclaim the Act as soon as possible after the resolution and transfer arrangements are finalised.

Yours sincerely

Bob Carr
Premier

23. MINISTERIAL CORRESPONDENCE — LORD HOWE ISLAND AMENDMENT BILL 2003

Introduced: 29 October 2003

House: Legislative Assembly

Minister: The Hon R J Debus MP

Portfolio: Environment

Background

1. The Committee reported on the *Coroners Amendment Bill 2003* in Legislation Review Digest No 5 of 10 November 2003.
2. The Committee noted that the Act was to commence by proclamation and therefore wrote to the Minister seeking advice as to the reasons why commencement by proclamation was necessary and the likely commencement date of the Act.

Minister's Reply

3. In a reply dated 26 November 2003 (below), the Minister responded to the Committee, advising that, given the degree of uncertainty about the final form of the legislation after debate in both Houses, the provision to commence the legislation by proclamation is to enable the government to ensure that any necessary preliminary requirements can be accommodated.
4. The Minister indicated that the Bill would commence as soon as practicable after the Act is passed by the Parliament.

Committee's Response

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| 5. The Committee thanks the Minister for his reply. |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref: LRC475/CP3732

The Hon R J Debus MP
Minister for the Environment
Level 36 Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

Lord Howe Island Amendment Bill 2003

The Committee has considered this Bill under s 8A of the *Legislation Review Act 1987* and notes that this Bill is to commence by proclamation.

The Committee is of the view that providing for an Act to commence on proclamation delegates to the Government the power to commence the Act on whatever day it chooses after assent or not to commence the Act at all. While there may be good reasons why such discretion may be required, the Committee considers that, in some circumstances, it can give rise to an inappropriate delegation of legislative power.

I would appreciate it if you would advise the Committee why it is necessary for this Bill to commence on proclamation and indicate a time frame within which the Act will commence after assent.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Collier', written over a horizontal line.

**BARRY COLLIER MP
CHAIRPERSON**



MINISTER FOR THE ENVIRONMENT

In reply please quote: 03/03809

Mr Barry Collier MP
Chairperson
Legislation Review Committee
NSW Parliament
Macquarie Street
SYDNEY NSW 2000



26 NOV 2003

Dear Mr Collier

Lord Howe Island Amendment Bill

Thank you for your letter of 7 November 2003 regarding the proposed commencement of the above Bill by proclamation.

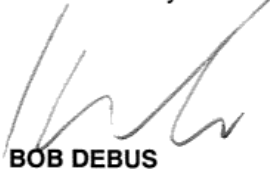
The Department of Environment and Conservation has advised me that amendment legislation is frequently commenced by proclamation. Informal advice obtained from the office of the Parliamentary Counsel suggests that it has been the practice for many years to commence legislation by proclamation on a day of the Government's choosing.

It is expected that the Bill will not be debated until the 2004 Budget session of Parliament, and, if passed, the Act would commence as soon as is practicable.

However, given a degree of uncertainty about the final form of the legislation after debate in both Houses, the provision to commence the legislation by proclamation would enable the Government to ensure that any necessary preliminary requirements can be accommodated. At this stage, however, I understand that there are no requirements for any regulation to be made prior to commencement.

If the Legislation Review Committee considers a change necessary, I would appreciate your earliest advice so that the necessary amendment can be made.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Debus'.

BOB DEBUS

24. MINISTERIAL CORRESPONDENCE — TRANSPORT LEGISLATION AMENDMENT (SAFETY AND RELIABILITY) BILL 2003

Introduced: 29 October 2003
House: Legislative Council
Minister: The Hon M Costa MLC
Portfolio: Transport Services

Background

1. The Committee reported on the *Transport (Safety and Reliability) Bill 2003* in Legislation Review Digest No 5 of 2003 on 10 November 2003.
2. On 7 November 2003, the Committee forwarded a letter to the Minister for Transport Services by facsimile, seeking his advice as to:
 - why the Act was to commence by proclamation, and the likely commencement date of the Bill;
 - why there are no requirements regarding the qualifications or attributes of a person who may be appointed or authorised officers under the proposed amendments to the *Passenger Transport Act 1990*; and
 - the other matters raised in the Committee's report.

Minister's Reply

3. In a reply received on 21 November 2003 (below), the Minister responded to the Committee, advising that:
 - it is standard practice in drafting legislation to provide that legislation takes effect on a day or days to be fixed by proclamation rather than on a specified date and that this practice is intended to ensure that the timeframe for the commencement of legislation can be sufficiently flexible to take account of unforeseen issues relating to the implementation of the legislation in question;
 - the Government intends commencing the Act on 1 January 2004;
 - the rationale for the inclusion of s 46U [abrogating the privilege against self-incrimination in the course of investigations under the Act] is that it supports investigation of transport accidents and incidents and “encourages those with information relevant to the inquiry to be able to disclose that information with a degree of protection from criminal consequences”;

- he is satisfied that the proposed inclusion of s 46U is “necessary to ensure that investigation of transport safety accidents is thorough, effective and consistent across the bus, ferry and rail transport modes”;
- the omission of the existing definition of “authorised officer” reflects the power of both the Director General and the Regulator to appoint authorised officers;
- with respect to the delegation of the Regulator’s functions, it is primarily intended that delegates be officers of the Regulator; and
- section 104 of the *Rail Safety Act 2002* already provides that enforcement proceedings may be instituted by a delegate, and that this function may not be sub-delegated.

Committee’s Response

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| <p>4. The Committee notes that it is intended that the Act will commence on 1 January 2004.</p> <p>5. The Committee considers that there are some issues where the Minister has not adequately answered the Committee’s concerns and has written again to the Minister.</p> |
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The Committee makes no further comment on this Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref:LRC3747/CP480

The Hon M Costa MLC
Minister for Transport Services
Level 31 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister

TRANSPORT LEGISLATION AMENDMENT (SAFETY AND RELIABILITY) BILL 2003

Pursuant to its obligations under s 8A of the *Legislation Review Act 1987*, the Committee has considered the above Bill introduced into the Legislative Council by you on 29 October 2003. I have included a copy of the Committee's report on the Bill for your information.

The Committee would be grateful for your response to the issues raised in the report, particularly those in relation to proposed s 46U of the *Passenger Transport Act 1990*. There are also specific issues below for which we seek further information.

The Committee notes Clause 2 of the Bill provides that the ensuing Act will commence "on a day or days to be appointed by proclamation". The exceptions are Schedules 3 [31] and 4 [116], which commence on the date of assent.

The Committee notes that providing the Act to commence on proclamation delegates to the Government the power to commence an Act on whatever day it chooses after assent or not to commence the Act at all. The Committee recognises that there may be good reasons why such a discretion may be required. It also considers that, in some circumstances, such discretion can give rise to an inappropriate delegation of legislative power.

The Committee seeks your advice as to the reasons for commencement by proclamation and the likely commencement date of the Act.

The Committee also notes that the Bill amends the definition of *authorised officer* in the *Passenger Transport Act 1990* to mean:

a person, or a member of a class of persons, appointed for the time being by the Director-General or ITSRR as an authorised officer or class of authorised officers for the purposes of the provision in which the expression is used, and includes an authorised officer appointed by the Director-General or ITSRR for the purposes of regulations made under Schedule 5.

The Bill does not put any limits on, or qualifications for, the persons who may be so authorised by the Director-General or ITSRR.

The Committee has previously expressed the view that, when legislation conveys on persons administrative powers that can significantly affect personal rights, it should include appropriate limits as to who may be authorised to exercise those powers [*Legislation Review Digest No 4 of 2003*, 27 October 2003, at 30-31].

The Committee seeks your advice as to why there are no requirements regarding the qualifications or attributes of persons who may be appointed as authorised officers under the proposed amendments to the *Passenger Transport Act 1990*.

Yours sincerely



BARRY COLLIER MP
CHAIRPERSON



*Minister for Transport Services
Minister for the Hunter
Minister Assisting the Minister for Natural Resources (Forests)*

Mr B Collier MP
Chairperson
Legislation Review Committee
Macquarie Street
SYDNEY NSW 2000



Dear Mr Collier

Transport Legislation Amendment (Safety and Reliability) Bill 2003.
Your reference: LRC3747/CP480

Thank you for your letter dated 7 November 2003 concerning the *Transport Legislation Amendment (Safety and Reliability) Bill 2003* and attaching a copy of the report of the Legislative Review Committee in relation to the Bill. On each of the three broad issues raised:

1. The proposed section 46U of the *Passenger Transport Act 1990*

The common law acknowledges the possibility of abrogation of the privilege against self-incrimination by the legislature. Current section 89 of the *Rail Safety Act* currently provides for the abrogation of the privilege against self-incrimination and consequential inadmissibility of statements made under compulsion. Proposed section 46U of the *Passenger Transport Act* is drafted in identical terms to section 89 of the *Rail Safety Act*. In both cases, the rationale for inclusion of the provision is that it supports investigation of transport accidents and incidents and encourages those with information relevant to an inquiry to be able to disclose that information with a degree of protection from criminal consequences.

In NSW, the legislature has adopted this rationale in relation to a number of matters, including: the investigation of occupational health and safety matters (section 65 of the *Occupational Health and Safety Act 2000*); investigation of matters relevant to the to the conduct of casino operations (section 33 of the *Casino Control Act 1992*); and investigation of environmental matters (section 212 of the *Protection of the Environment Operations Act 1997*).

I am satisfied that the proposed inclusion of section 46U is necessary to ensure that investigation of transport safety accidents is thorough, effective and consistent across the bus, ferry and rail transport modes.

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Tel 9228 5665 Fax 9228 5699

2. The reasons for providing that the legislation would have effect from the date of its proclamation rather than on a date specified in the Bill

I understand that the Parliamentary Counsel's Office website states that, in respect of the commencement of acts of Parliament, the most common commencement times are:

- on a day or days to be fixed by proclamation
- on the date of Royal Assent (ie signing by the Governor)
- on a specified date.

I am informed that it is now standard practice in drafting legislation to provide that legislation takes effect on a day or days to be fixed by proclamation rather than on a specified date. I understand that this practice is intended to ensure that the timeframe for the commencement of legislation can be sufficiently flexible to take account of unforeseen issues relating to the implementation of the legislation in question.

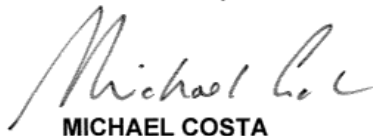
It is the Government's intention to instruct Parliamentary Counsel to draft a proclamation specifying a commencement date of 1 January 2004.

3. The reasons that the Bill does not provide for requirements regarding the qualifications or attributes of persons who may be appointed as authorised officers under the *Passenger Transport Act 1990*

The Bill proposes to omit the present definition of "authorised officer" in the *Passenger Transport Act 1990* and replace it with one that recognises the power of both the Director-General and the Regulator to appoint authorised officers. Other than in this respect, the proposed amendment does not substantively alter the present definition.

In relation to the delegation of Regulator's functions under the *Transport Administration Act 1988* (paragraph 32, Report of the Legislation Review Committee) it is noted that it is primarily intended that delegates be officers of the Regulator; additionally, authorised officers may be other persons approved by the Regulator or prescribed by the regulations. In relation to the institution of enforcement proceedings, the Committee is referred to section 104 of the *Rail Safety Act*, which already relevantly provides that proceedings under the Act may be instituted by a delegate or an authorised person. This is not a function that may be sub-delegated.

Yours sincerely



MICHAEL COSTA

21 NOV 2003

PART TWO – REGULATIONS

SECTION A: REGULATIONS ABOUT WHICH THE COMMITTEE IS SEEKING FURTHER INFORMATION

Regulation	Gazette reference		Information sought	Response Received
	Date	Page		
Aboriginal Land Rights Amendment (Rate Exemptions) Regulation 2003	04/07/03	6805	20/08/03	30/10/03
Child and Young Persons (Savings and Transitional) Amendment (Out-of-Home Care) Regulation 2003 and Children and Young Persons (Care and Protection) Amendment (Out-of-Home Care) Regulation 2003	11/07/03	7021 7054	20/08/03 from Privacy Commissioner	
Inclosed Lands Protection Regulation 2002	06/12/02	10370	29/05/03 16/09/03	
Landlord and Tenant (Rental Bonds) Regulation 2003	29/08/03	8434	24/10/03	05/11/03
Pawnbrokers and Second Hand Dealers Regulation 2003	29/08/03	8698	24/10/03	05/11/03
Radiation Control Regulation 2003	29/08/03	8534	24/10/03	
Road Transport (General) (Penalty Notice Offences) Amendment (Interlock Devices) Regulation 2003 and Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003	29/08/03	8434	24/10/03 from Privacy Commissioner	28/11/03
Crimes (Forensic Procedures) Amendment (DNA Database Systems) Regulation 2003	12/09/03	9227	07/11/03	
Protected Estates Regulation 2003	26/09/03	9575	07/11/03	24/11/03

SECTION B: COPIES OF CORRESPONDENCE ON REGULATIONS

Regulation & Correspondence	Gazette ref
Protected Estates Regulation 2003 <ul style="list-style-type: none">• Letter to Attorney General dated 7 November 2003• Letter from Attorney General received 7 November 2003	26/09/2003 page 9575



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

7 November 2003

Our Ref: LRC3721/CP436

Hon R J Debus MP
Attorney General
Level 36 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney

PROTECTED ESTATES REGULATION 2003

Pursuant to its functions under s 8A of the *Legislation Review Act 1987*, the Committee has considered the above Regulation.

The Committee notes that in submissions on the draft Regulation and the Regulatory Impact Statement, the Multicultural Disability Awareness Association suggested that the Regulation require notices made under Schedules 1, 2 or 3 be given to protected persons and their relatives/friends who care for them both in English and in their preferred language. This will ensure that all concerned understand the implications of the detention order, and any financial management order that may subsequently be made.

The Committee considers that due to the significant impact of such orders on the rights of a person to liberty and to manage their own money and assets, every effort should be made to ensure that the person concerned and those that care for them fully understand the implications of these orders. Requiring that the notices informing them of the making and content of such orders be made in their preferred language as well as in English would help to ensure this.

The Committee asks that, in the interests of the rights of protected persons, consideration be given to requiring that notices of the making of detention orders or financial management orders be given to the protected person concerned and their family in their preferred language as well as in English.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Collier', written over a horizontal line.

**BARRY COLLIER MP
CHAIRPERSON**

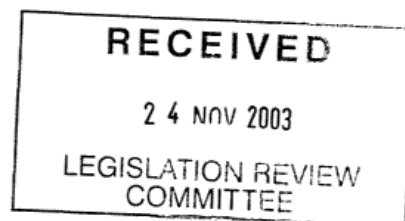
Parliament of New South Wales · Macquarie Street · Sydney NSW 2000 · Australia
Telephone (02) 9230 2899 · Facsimile (02) 9230 3052 · Email legislation.review@parliament.nsw.gov.au



NEW SOUTH WALES

ATTORNEY GENERAL

Mr Barry Collier MP
Chairperson
Legislation Review Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000



Dear Mr Collier

I refer to your letter of 7 November 2003 concerning the Protected Estates Regulation 2003. You have asked that consideration be given to requiring notices made under Schedules 1, 2 and 3 of the Regulation to be given to protected persons and the relatives/friends who care for them both in English and their preferred language.

The notices to which you refer are not notices issued by the Office of the Protective Commissioner. The Schedule 1 and 2 notices are given by medical superintendents in mental health facilities. I am advised that the Department of Health has a dedicated Health Care Interpreter Service (HCIS) which assists health care providers to carry out their professional obligations in cross cultural situations. All health facilities are obliged to display the contact phone number for the HCIS and HCIS brochures.

The Schedule 3 notice is provided by a Magistrate or the Mental Health Review Tribunal. While English is the official language used in all court documents, such as judgements, orders and notices, telephone translating and interpreting services are readily available to Court and Tribunal clients. In the Local Court, interpreter services are generally provided free of charge in all but civil claims matters. Similarly, the Mental Health Advocacy Service of the Legal Aid Commission, which often represents people in mental health related proceedings, arranges free interpreter services for people who are deaf or speak a language other than English.

Yours faithfully

A handwritten signature in black ink, appearing to read "Bob Debus".

BOB DEBUS

Level 36, Governor Macquarie Tower,
1 Farrer Place, Sydney NSW 2000
Telephone: (02) 9228 3071

Postal: PO Box A290, Sydney South NSW 1232

Facsimile: (02) 9228 3166

Appendix 1: Index of Bills Reported on in 2003

	Digest Number
Appropriation (Health Super-Growth Fund) Bill 2003	5
Bail Amendment (Firearms and Property Offences) Bill 2003	7
Catchment Management Authorities Bill 2003	6
Child Protection Legislation Amendment Bill 2003	2,5
Children and Young Persons (Care and Protection) Amendment (Child Abuse or Neglect) Bill 2003	6
City Tattersall's Club Amendment Bill 2003	6
Civil Liability Amendment Bill 2003	7
Civil Liability Amendment (Mental Illness) Bill 2003	7
Clyde Waste Transfer Terminal (Special Provisions) Bill 2003	7
Commonwealth Powers (De Facto Relationships) Bill 2003	2
Community Relations Commission and Principles of Multiculturalism Amendment Bill 2003	3
Constitution Amendment (Governor's Salary) Bill 2003	5
Coptic Orthodox Church (NSW) Property Trust Amendment Bill 2003	5
Coroners Amendment Bill 2003	5,7
Courts Legislation Amendment Bill 2003	5,7
Crimes Amendment (Protection of Innocent Accused) Bill 2003	2
Crimes Legislation Further Amendment Bill 2003	7
Criminal Procedure Amendment (Sexual Offence Evidence) Bill 2003	1
Defamation Amendment (Costs) Bill 2003	3
Developer Donations (Anti-Corruption) Bill 2003	7
Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2003	2
Duties Amendment (Land Rich) Bill 2003	7
Duties Amendment (Stamp Duty Reduction) Bill 2003	7
Education Amendment (Computing Skills) Bill 2003	2
Environmental Planning and Assessment Amendment (Development Consents) Bill 2003	4
Environmental Planning and Assessment Amendment (Planning Agreements) Bill 2003	7
Environmental Planning and Assessment Amendment (Quality of Construction) Bill 2003	6
Evidence (Audio and Audio Visual Links) Amendment Bill 2003	6
Evidence Legislation Amendment (Accused Child Detainees) Bill 2003	3
Firearms and Crimes Legislation Amendment (Public Safety) Bill 2003	5
Funeral Funds Amendment Bill 2003	4

	Digest Number
Gaming Machines Amendment (Miscellaneous) Bill 2003	3,7
Hairdressers Bill 2003	4
Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003	5,7
Industrial Relations Amendment (Public Vehicles and Carriers) Bill 2003	4
Local Government Amendment (Cudgegong (Abattoir) County Council Dissolution) Bill 2003	5
Local Government Amendment Bill 2003	7
Local Government Amendment (No Forced Amalgamations) Bill 2003	2,3
Lord Howe Island Amendment Bill 2003	5
Marketing of Primary Product Amendment (Rice Marketing) Bill 2003	6
Motor Accidents Legislation Amendment Bill 2003	6
Motor Accidents Compensation Amendment (Terrorism) Bill 2003	5
National Park and Wildlife Amendment (Kosciuszko National Park Roads) Bill 2003	5
Native Vegetation Bill 2003	6
Natural Resources Commission Bill 2003	6
Police Association Employees (Superannuation) Amendment Bill 2003	4
Police Legislation Amendment (Civil Liability) Bill 2003	6
Powers of Attorney Bill 2003	2,4
Prevention of Cruelty to Animals (Penalties) Bill 2003	3
Privacy and Personal Information Protection Amendment Bill 2003	4
Quarantine Station Preservation Trust Bill 2003	2
Registered Clubs Amendment Bill 2003	7
Road Transport Efficiency Bill 2003	3
Roads Amendment (Transfer of Crown Roads) Bill 2003	7
Royal Blind Society (Corporate Conversion) Bill 2003	4
State Revenue Legislation Further Amendment Bill 2003	7
Statute Law (Miscellaneous Provisions) Bill 2003	7
Superannuation Legislation Amendment (Family Law) Bill 2003	6
Sydney Water Amendment (Water Restrictions) Bill 2003	4,5
Sydney Water Catchment Management Amendment Bill 2003	5
Sporting Venues (Pitch Invasion) Bill 2003	2
Totalizator Legislation Amendment Bill 2003	7
Transport Administration Amendment (Rail Agencies) Bill 2003	6
Transport Administration Amendment (Sydney Ferries) Bill 2003	7
Transport Legislation Amendment (Safety and Reliability) Bill 2003	5,7

	Digest Number
Veterinary Practice Bill 2003	5
Voluntary Euthanasia Trial (Referendum) Bill 2003	3
Wine Grapes Marketing Board (Reconstitution) Bill 2003	7
Workers Compensation Amendment (Insurance Reform) Bill 2003	6
Workers Compensation Amendment (Trainees) Bill 2003	7

Appendix 2: Index of Ministerial Correspondence on Bills from September 2003

Bill	Minister/Member	Letter sent	Reply	Digests
Child Protection Legislation Amendment Bill 2003	Minister for Community Services	12/09/03	07/11/03	2,5
Powers of Attorney Bill 2003	Attorney General	12/09/03	07/10/03	2,4
Gaming Machines Amendment (Miscellaneous) Bill 2003	Minister for Gaming and Racing	10/10/03	26/11/03	3,7
Environmental Planning and Assessment (Development Consents) Bill 2003	Minister for Infrastructure and Planning	24/10/03		4
Privacy and Personal Information Protection Amendment Bill 2003	Attorney General	24/10/03		4
Sydney Water Amendment (Water Restrictions) Bill 2003	Minister for Energy and Utilities	24/10/03	27/10/03	4,5
Coroners Amendment Bill 2003	Attorney General	07/11/03	27/11/03	5,7
Courts Legislation Amendment Bill 2003	Attorney General	07/11/03	25/11/03	5,7
Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003	Premier	07/11/03	27/11/03	5,7
Lord Howe Island Amendment Bill 2003	Minister for the Environment	07/11/03	28/11/03	5,7
National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Bill 2003	Minister for the Environment	07/11/03		5
Transport Legislation Amendment (Safety and Reliability) Bill 2003	Minister for Transport Services	07/11/03	21/11/03	5,7
Veterinary Practice Bill 2003	Minister for Agriculture and Fisheries	07/11/03		5
Catchment Management Authorities Bill 2003; Natural Resources Bill 2003 and Native Vegetation Bill 2003	Minister for Infrastructure, Planning and Natural Resources	18/11/03		6
Environmental Planning and Assessment (Quality of Construction) Bill 2003	Minister for Infrastructure, Planning and Natural Resources	18/11/03		6
Motor Accidents Legislation Amendment Bill 2003	Minister for Commerce	18/11/03		6
Police Legislation Amendment (Civil Liability) Bill 2003	Minister for Police	18/11/03		6
Transport Administration Amendment (Rail Agencies) Bill 2003	Minister for Transport Services	18/11/03		6
Workers Compensation Amendment (Insurance Reforms) Bill 2003	Minister for Commerce	18/11/03		6
Bail Amendment (Firearms and Property Offences) Bill 2003	Attorney General	28/11/03		7
Civil Liability Amendment Bill 2003	Attorney General	28/11/03		7

Bill	Minister/Member	Letter sent	Reply	Digests
Crimes Legislation Further Amendment Bill 2003	Attorney General	28/11/03		7
Environmental Planning and Assessment Amendment (Planning Agreements) Bill 2003	Minister for Infrastructure, Planning and Natural Resources	28/11/03		7
Local Government Amendment Bill 2003	Minister for Local Government	28/11/03		7
Registered Clubs Amendment Bill 2003	Minister for Gaming and Racing	28/11/03		7
State Revenue Legislation Further Amendment Bill 2003	Treasurer	28/11/03		7

Appendix 3: Bills that received comments under s 8A of the Legislation Review Act in 2003

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Bail Amendment (Firearms and Property Offences) Bill 2003	R			C	
Catchment Management Authorities Bill 2003	R	C		C	C
Child Protection Legislation Amendment Bill 2003	N			C	
Civil Liability Amendment Bill 2003	C,N			C	
Civil Liability Amendment (Mental Illness) Bill 2003	R				
Clyde Waste Transfer Terminal (Special Provisions) Bill 2003	R				
Commonwealth Powers (De Facto Relationships) Bill 2003				N	
Coroners Amendment Bill 2003	N		N	C	
Courts Legislation Amendment Bill 2003	N			C	
Crimes Amendment (Protection of Innocent Accused) Bill 2003	R				
Crimes Legislation Further Amendment Bill 2003	N,R,C			C	
Criminal Procedure Amendment (Sexual Offence Evidence) Bill 2003	N				
Defamation Amendment (Costs) Bill 2003	R				
Developer Donations (Anti-Corruption) Bill 2003	R				
Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2003	N		N		

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Duties Amendment (Land Rich) Bill 2003	R				
Environmental Planning and Assessment Amendment (Development Consents) Bill 2003	N		N	C	
Environmental Planning and Assessment Amendment (Planning Agreements) Bill 2003				C	
Environmental Planning and Assessment (Quality of Construction) Bill 2003	C			C	
Evidence Legislation Amendment (Accused Child Detainees) Bill 2003	N			N	
Evidence (Audio and Audio Visual Links) Amendment Bill 2003	N			N	
Firearms and Crimes Legislation Amendment (Public Safety) Bill 2003	N				
Funeral Funds Amendment Bill 2003	N			N	
Gaming Machine Amendment (Miscellaneous) Bill 2003	N			C	
Hairdressers Bill 2003				N	
Independent Commission Against Corruption Amendment (Ethics Committee) Bill 2003				C	
Industrial Relations Amendment (Public Vehicles and Carriers) Bill 2003	N			N	
Local Government Amendment Bill 2003			N	C	
Lord Howe Island Amendment Bill 2003				C	
Motor Accidents Legislation Amendment Bill 2003	R			C	
National Parks and Wildlife Amendment (Kosciuszko National Park Roads) Bill 2003	C			C	
Native Vegetation Bill 2003	R	C		C	C

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Natural Resources Bill 2003	R	C		C	C
Police Legislation Amendment (Civil Liability) Bill 2003	N			R	
Powers of Attorney Bill 2003	N			C	
Privacy and Personal Information Protection Amendment Bill 2003	R			C	R
Quarantine Station Preservation Trust Bill 2003		R			
Registered Clubs Amendment Bill 2003	R			C	
Road Transport Efficiency Bill 2003				R	N
Royal Blind Society (Corporate Conversions) Bill 2003	N		N		
Sporting Venues (Pitch Invasion) Bill 2003	R				
Statute Law (Miscellaneous Provisions) Bill (No 2) 2003	N,R			N	
State Revenue Legislation Further Amendment Bill 2003	C				
Superannuation Legislation Amendment (Family Law) Bill 2003				N	
Sydney Water Amendment (Water Restrictions) Bill 2003	R	R		C	
Totalizator Legislation Amendment Bill 2003				N	
Transport Administration Amendment (Rail Agencies) Bill 2003	R		R	N	R
Transport Administration Amendment (Sydney Ferries) Bill 2003			R	R	R
Transport Legislation Amendment (Safety and Reliability) Bill 2003	N,R	C		R	

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Veterinary Practice Bill 2003	C,R			C	
Voluntary Euthanasia Trial (Referendum) Bill 2003				R	N
Workers Compensation Amendment (Insurance Reform) Bill 2003	C			C,R	

Key

- R Issue referred to or brought to the attention of Parliament
 C Correspondence with Minister/Member
 N Issue Noted