



## Legislation Review Committee

LEGISLATION REVIEW DIGEST

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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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# Membership

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# Functions of the Committee

The functions of the Legislation Review Committee are set out in the *Legislation Review Act 1987*:

## 8A Functions with respect to Bills

- 1 The functions of the Committee with respect to Bills are:
  - (a) to consider any Bill introduced into Parliament, and
  - (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
    - i trespasses unduly on personal rights and liberties, or
    - ii makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, or
    - iii makes rights, liberties or obligations unduly dependent upon non-reviewable decisions, or
    - iv inappropriately delegates legislative powers, or
    - v insufficiently subjects the exercise of legislative power to parliamentary scrutiny
- 2 A House of Parliament may pass a Bill whether or not the Committee has reported on the Bill, but the Committee is not precluded from making such a report because the Bill has been so passed or has become an Act.

## 9 Functions with respect to Regulations

- 1 The functions of the Committee with respect to regulations are:
  - (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament,
  - (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
    - i that the regulation trespasses unduly on personal rights and liberties,
    - ii that the regulation may have an adverse impact on the business community,
    - iii that the regulation may not have been within the general objects of the legislation under which it was made,
    - iv that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made,

- v that the objective of the regulation could have been achieved by alternative and more effective means,
  - vi that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
  - vii that the form or intention of the regulation calls for elucidation, or
  - viii that any of the requirements of sections 4, 5 and 6 of the *Subordinate Legislation Act 1989*, or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.

2 Further functions of the Committee are:

- (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
- (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.

The functions of the Committee do not include an examination of, inquiry into or report on a matter of Government policy, except in so far as such an examination may be necessary to ascertain whether any regulations implement Government policy or the matter has been specifically referred to the Committee under subsection (2) (b) by a Minister of the Crown.

# Guide to the Digest

## COMMENT ON BILLS

This section contains the Legislation Review Committee's reports on Bills introduced into Parliament on which the Committee has commented against one or more of the five criteria for scrutiny set out in s 8A(1)(b) of the *Legislation Review Act 1987*.

### Ministerial Correspondence – Bills previously considered

This section contains the Committee's reports on correspondence it has received relating to Bills and copies of that correspondence. The Committee may write to the Minister responsible for a Bill, or a Private Member of Parliament in relation to his or her Bill, to seek advice on any matter concerning that Bill that relates to the Committee's scrutiny criteria.

## COMMENT ON REGULATIONS

The Committee considers all regulations made and normally raises any concerns with the Minister in writing. When it has received the Minister's reply, or if no reply is received after 3 months, the Committee publishes this correspondence in the Digest. The Committee may also inquire further into a regulation. If it continues to have significant concerns regarding a regulation following its consideration, it may include a report in the Digest drawing the regulation to the Parliament's "special attention". The criteria for the Committee's consideration of regulations are set out in s 9 of the *Legislation Review Act 1987*.

### Regulations for the special attention of Parliament

When required, this section contains any reports on regulations subject to disallowance to which the Committee wishes to draw the special attention of Parliament.

### Regulations about which the Committee is seeking further information

This table lists the Regulations about which the Committee is seeking further information from the Minister responsible for the instrument, when that request was made and when any reply was received.

### Copies of Correspondence on Regulations

This part of the Digest contains copies of the correspondence between the Committee and Ministers on Regulations about which the Committee sought information. The Committee's letter to the Minister is published together with the Minister's reply.

## APPENDIX 1: INDEX OF MINISTERIAL CORRESPONDENCE ON BILLS

This table lists the recipient and date on which the Committee sent correspondence to a Minister or Private Member of Parliament in relation to Bills reported on in the calendar year. The table also lists the date a reply was received and the Digests in which reports on the Bill and correspondence appear.

**APPENDIX 2: INDEX OF CORRESPONDENCE ON REGULATIONS  
REPORTED ON**

This table lists the recipient and date on which the Committee sent correspondence to a Minister in relation to Regulations reported on in the calendar year. The table also lists the date a reply was received and the Digests in which reports on the Regulation and correspondence appear.



# Conclusions

## PART ONE - BILLS

### 1. ABORIGINAL LAND RIGHTS AMENDMENT BILL 2013

Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA

#### *Lack of clarity*

The Committee notes that listing “any other Act that amends this Act” rather than listing the name of each of those amending Acts limits the clarity of the Schedule outlined above. The Committee has a preference for the name of each Act being listed to avoid this lack of clarity. As the list relates to the regulation making power pertaining to provisions of a savings or transitional nature, and recognising that the proposed insertion ensures that the Schedule is comprehensive, the Committee makes no further comment on this issue.

### 2. HEAVY VEHICLE (ADOPTION OF NATIONAL LAW) BILL 2013

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

#### *Increase in penalties*

The Committee notes that a number of the penalties imposed on individuals included in the National Law represent a substantial increase when compared with the penalties currently imposed. However, given the safety objectives of the Bill, and noting that the proposed legislation is National Law, the Committee makes no further comment on this issue.

#### *Limited defence*

The Committee notes that the defence of mistake of fact is not available to persons charged with an offence in relation to the prevention and causation of a driver driving whilst fatigued, or a failure to work and rest at the appropriate times. Given the safety objectives of this Bill, the Committee makes no further comment on this issue.

#### *Right against self-incrimination*

In the Committee’s view, requiring a person to provide information that may incriminate them and then potentially using that information against them in criminal proceedings could impact on that person’s right against self-incrimination. However, given that the proposed legislation is National Law and in light of the safety objectives of the Bill, the Committee makes no further comment on this issue.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

#### *Commencement by Proclamation*

Although the Committee generally prefers that legislation commences either on a fixed date or on assent, given the administrative arrangements required before the legislation can take effect, the Committee does not consider the commencement by proclamation to be unreasonable in the circumstances.

Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA

*Reference to an Interstate Jurisdiction*

Although this Bill will remove the ability of the NSW Parliament from scrutinising any subsequent amendment bills to the Heavy Vehicle National Law, the Committee recognises that the nature of cooperative federalism and design of model legislation will often require that one jurisdiction take the lead on model legislation, with other jurisdictions providing reference to the model legislation. The Committee makes no further comment on this issue.

**3. LOCAL GOVERNMENT AMENDMENT (CONDUCT OF ELECTIONS) BILL 2013**

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

**4. LOCAL LAND SERVICES BILL 2013**

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

**5. PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (ILLEGAL WASTE DISPOSAL) BILL 2013**

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

*Strict liability offence*

The Committee notes that the maximum penalties for an offence under proposed section 144AB include a monetary penalty of up to \$250,000 for individuals or imprisonment for two years, or both. The Committee notes that the proposed offence will only apply to repeat waste offenders. Nevertheless, the Committee considers that a term of imprisonment is a significant penalty for committing a strict liability offence and therefore refers this issue to Parliament for further consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

*Commencement by proclamation*

Given that most of the provisions of the Bill deal with circumstances where a person has committed a repeat waste offence, the Committee makes no further comment on the commencement of the Bill by proclamation.

**6. PUBLIC HEALTH AMENDMENT (VACCINATION OF CHILDREN ATTENDING CHILD CARE FACILITIES) BILL 2013**

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

*Privacy*

The Committee notes that the Bill may require the disclosure of sensitive medical information that may interfere with the privacy of the child. However, the Committee is also aware of the broader public health requirements of ensuring maximum vaccination coverage, and ensuring the integrity of any exemptions granted, including exemptions relating to medical contraindications. The Committee makes no further comment.

*Right to Education*

Although this Bill may affect an unvaccinated child's access to education, given the broader public health interest at stake – including the health interests of an unvaccinated child – the Committee does not consider this provision to be unreasonable in the circumstances.

**Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA**

*Commencement by Proclamation*

The Committee notes this Bill may commence by proclamation, which may impact on the ability of parents to ensure their children are fully vaccinated before the legislation takes effect.

**7. STATE REVENUE LEGISLATION AMENDMENT BILL 2013**

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

**PART TWO - REGULATIONS**

**1. PRIVACY AND PERSONAL INFORMATION PROTECTION AMENDMENT (CCTV) REGULATION 2013**

**The regulation trespasses unduly on personal rights and liberties: s 9(1)(b)(i) of the LRA**

*Right to privacy*

While the Regulation gives local councils some privacy exemptions when using CCTV, councils will still have to comply with the remaining Information Protection Principles in the *Privacy and Personal Information Protection Act 1998*, which provides some privacy safeguards for individuals. Nevertheless, because the proposed amendments could impact on an individual's right to privacy, the Committee refers this issue to Parliament for further consideration.



## Part One - Bills

# 1. Aboriginal Land Rights Amendment Bill 2013

Date introduced	29 May 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Victor Dominello MP
Portfolio	Minister for Aboriginal Affairs

### PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Aboriginal Land Rights Act 1983* (the *principal Act*):
  - (a) to clarify which functions of a Local Aboriginal Land Council (a *LALC*) may be exercised by the Board of the *LALC* and to alter the provisions relating to the delegation of functions by the chief executive officer of a *LALC*; and
  - (b) to alter the requirements in relation to the advertising of staff vacancies for Aboriginal Land Councils and the qualifications of persons to fill those vacancies; and
  - (c) to clarify the provisions relating to the disqualification of a person to hold the office of a member of a *LALC* or New South Wales Aboriginal Land Council (*NSWALC*) and the filling of vacancies in those offices; and
  - (d) to change the basis on which community development levies payable in relation to certain transactions of *LALCs* are calculated; and
  - (e) to make other miscellaneous amendments aimed at improving the administration of the principal Act and of Aboriginal Land Councils.
2. The Bill also makes consequential amendments to the *Aboriginal Land Rights Regulation 2002*.
3. The Bill also amends the *National Parks and Wildlife Act 1974* to provide that land of cultural significance to Aboriginal persons vested in more than one Aboriginal Land Council under that Act is vested in those Councils as tenants in common rather than as joint tenants.

### BACKGROUND

4. In December 2011 the Minister commenced a five yearly statutory review of the *Aboriginal Land Rights Act* to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

5. This Bill represents the initial outcomes of the review with a range of amendments that will enhance the administrative efficiency and effectiveness of the Act. This Bill is the first instalment of a bigger project to more fully realise the potential of the Act.

## OUTLINE OF PROVISIONS

6. Clause 1 sets out the name (also called the short title) of the proposed Act.
7. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act except for the repeal of section 163 of the principal Act which will commence on 1 January 2014.

### Schedule 1 Amendment of Aboriginal Land Rights Act 1983 No 42

#### *Amendments relating to property and land dealings of Aboriginal Land Councils*

8. Schedule 1 [2] amends section 38 of the principal Act to remove a restriction on purchasing or leasing property (other than land) by NSWALC or a LALC that requires the purchase or lease to be connected to the use, development or improvement of land.
9. Schedule 1 [4] amends section 42D of the principal Act to remove a requirement that NSWALC must notify the Minister administering that Act and the Minister administering the Crown lands and Western lands legislation before dealing with land vested in it under section 36 (Claims to Crown lands) of the principal Act.
10. Schedule 1 [5] amends section 42E of the principal Act to remove a requirement that a LALC must notify the Minister administering that Act and the Minister administering the Crown lands and Western lands legislation before dealing with land vested in it under section 36 (Claims to Crown lands) of the principal Act.

#### *Amendments relating to members of NSWALC and LALCs, Board members and staff*

11. Schedule 1 [12] amends section 55 of the principal Act to remove the restriction that prevents a voting member of a LALC from voting at an election for Board members if he or she has not attended at least 2 meetings of the Council in the preceding
12. 12 months as a voting member.
13. Schedule 1 [13] amends section 59 of the principal Act to remove the requirement that NSWALC pay to the Registrar a contribution towards the cost of the Registrar compiling and maintaining a consolidated roll of all members of LALCs.
14. Schedule 1 [15] amends section 63 of the principal Act to provide that a person is not qualified to stand for election, or to be elected, as a member of the Board of a LALC if he or she has not attended at least 2 meetings of the Council in the preceding 12 months. That ground for disqualification does not apply if an administrator was appointed for the LALC for all or part of the relevant 12 month period.
15. Schedule 1 [16] makes a consequential amendment.
16. Schedule 1 [17] and [18] amend section 65 of the principal Act to extend the requirement for NSWALC to arrange certain training for new members of the Board of a LALC so that training will be required to be arranged for all members of the Board.

NSWALC may exempt a Board member from the training if satisfied that the member has already undergone such training.

17. Schedule 1 [19] amends section 66 of the principal Act to disqualify a person from holding the office of a Board member of a LALC if the person was a Board member of the Council immediately before the appointment of an administrator for the Council at any time during the preceding 5 years.
18. Schedule 1 [20] amends section 66 of the principal Act to clarify that a person is not disqualified from holding the office of a Board member of a LALC if the person is an employee of, or consultant to NSWALC.
19. Schedule 1 [21] amends section 66 of the principal Act to provide that a person who is employed by, or is a consultant to, a LALC is not disqualified from being elected or holding office as a Board member of a LALC if the person resigns as an employee or consultant as soon as practicable after becoming aware of the result of the election.
20. Schedule 1 [22] amends section 68 of the principal Act to enable a vacancy in the office of a Board member of a LALC that has been created by the election of a person who was disqualified from holding that office to be filled in the same way as a casual vacancy in that office.
21. Schedule 1 [23] amends sections 70 and 136 of the principal Act to provide that an appeal against an order made by the Administrative Decisions Tribunal declaring a vacancy in the office of a Board member of a LALC is to be made to the Land and Environment Court rather than, as is currently the case, to the Supreme Court. It also makes consequential amendments to sections 71 and 137 of the principal Act.
22. Schedule 1 [27] amends section 79 of the principal Act to provide that the provision preventing a member of staff of NSWALC from being employed by a LALC does not prevent the secondment of such a person.
23. Schedule 1 [28] substitutes section 79A of the principal Act to provide that a vacancy in the position of chief executive officer of a LALC must be advertised by the Board of the LALC in the manner prescribed by the regulations. A vacancy in any other position of the staff of a LALC must be advertised in the manner considered appropriate by the chief executive officer of the LALC. Currently, all such vacancies must be advertised in the manner prescribed by the regulations.
24. Schedule 1 [31] amends section 121 of the principal Act to make it clear that a person is not qualified to stand for election, or to be elected, as a councillor to represent a Region on NSWALC if the person is disqualified from holding the office of councillor.
25. Schedule 1 [32] amends section 121 of the principal Act to allow for the making of regulations relating to the nomination of persons for election as a councillor to represent a region on NSWALC.
26. Schedule 1 [33] amends section 132 of the principal Act to disqualify a person from holding the office of a councillor of NSWALC if the person was a councillor immediately before the appointment of an administrator for NSWALC at any time during the preceding 5 years.

27. Schedule 1 [34] provides that a person who is employed by, or is a consultant to, NSWALC is not disqualified from being elected or holding office as a councillor of NSWALC if the person takes a leave of absence from the time of nomination to stand for election and, if the person is elected, resigns as an employee or consultant as soon as practicable after becoming aware of the result of the election.
28. Schedule 1 [35] inserts proposed section 132A. The proposed section provides that an employee of, or consultant to, NSWALC who stands for election as a councillor of NSWALC is to take a leave of absence from the day after being nominated for election until the result of the election is declared.
29. Schedule 1 [37] amends section 133 of the principal Act so that a person who is a councillor of NSWALC will no longer vacate office if the person represents a region the area of which is changed. Schedule 1 [36] makes a consequential amendment.
30. Schedule 1 [38] amends section 134 of the principal Act to enable a vacancy in the office of a councillor of NSWALC that has been created by the election of a person who was disqualified from holding that office to be filled in the same way as a casual vacancy in that office.
31. Schedule 1 [39] substitutes section 143A of the principal Act to provide that a vacancy in the position of Chief Executive Officer of NSWALC must be advertised by NSWALC in the manner prescribed by the regulations. A vacancy in any other position of the staff of NSWALC must be advertised in the manner considered appropriate by the Chief Executive Officer of NSWALC. Currently, all such vacancies must be advertised in the manner prescribed by the regulations.
32. Schedule 1 [40] amends section 144 of the principal Act to include as persons who cannot be appointed as members of staff of NSWALC persons who are councillors, officers, consultants or members of staff of LALCs. This does not prevent consultants or members of staff of LALCs being seconded to NSWALC.
33. Schedule 1 [48] amends section 242 of the principal Act to provide protection from personal liability to members of staff of Aboriginal Land Councils for acts done in good faith for the purpose of executing the principal Act. Schedule 1 [49] makes a consequential amendment.
34. Schedule 1 [50] inserts proposed section 243A into the principal Act which provides that a person who is a councillor of NSWALC or a Board member of a LALC is not entitled to exercise the functions of that office and is not entitled to any fee or remuneration in relation to that office while the person is suspended from holding that office.
35. Schedule 1 [46] makes a consequential amendment.

*Amendments relating to financial matters*

36. Schedule 1 [6] substitutes section 42T of the principal Act to provide that community development levies currently payable by LALCs in relation to certain transactions are to be calculated at the general rate of duty payable under the *Duties Act 1997* so that premium rates of duty payable under that Act will not apply. The proposed section also modifies the operation of the *Duties Act 1997* in relation to such transactions to simplify the requirements for payment of duty and stamping where a



transaction is effected by more than one instrument. Schedule 1 [7] and Schedule 2.1 [5] make consequential amendments.

37. Schedule 1 [8] amends section 44 of the principal Act to update references to a number of Acts.
38. Schedule 1 [41] amends section 149 of the principal Act to remove travelling and other allowances from the list of expenditure that may be paid out of NSWALC's account to Board members of LALCs.
39. Schedule 1 [42] amends section 152 of the principal Act to include in the expenditure that may be paid out of a LALC's account travelling and other allowances to Board members of the LALC.
40. Schedule 1 [43] amends section 153 of the principal Act to require the financial statements of a LALC to be audited by an auditor appointed by the LALC from a list of auditors kept by NSWALC. The regulations may prescribe requirements in relation to the manner of keeping the list and the qualifications of auditors. Currently, NSWALC appoints the auditor in the manner prescribed by the regulations.
41. Schedule 1 [45] omits section 163 from the principal Act which requires NSWALC to immediately cease providing funding to a LALC under a funding agreement if the LALC fails to comply with certain reporting requirements. NSWALC retains the authority to cease providing funding to a LALC that breaches a condition of a funding agreement.

*Amendments relating to the exercise of functions by Aboriginal Land Councils and delegations*

42. Schedule 1 [9] amends section 52E of the principal Act to provide that the functions of a LALC relating to the acquisition of land may be delegated to the Board, other than the power of delegation and any function that is required by section 52G of the principal Act to be exercised by resolution of the LALC. Schedule 1 [10] makes a consequential amendment.
43. Schedule 1 [11] amends section 52G of the principal Act to make it clear that a LALC is not required to pass a resolution approving the contents of the annual budget and financial statements of the LALC.
44. Schedule 1 [14] amends section 62 of the principal Act to clarify that the Board of a LALC may exercise any of the functions of the LALC on behalf of the LALC, including the acquisition of land (if that function is delegated to the Board by the LALC) but not including any other function of the LALC that is expressly required by or under an Act to be exercised by resolution of the LALC.
45. Schedule 1 [24] amends section 72 of the principal Act to provide that the Board of a LALC may only delegate its functions to the chief executive officer or a person or body prescribed by the regulations. Currently, the Board of a LALC may delegate its functions to any person or body.
46. Schedule 1 [25] amends section 78A of the principal Act to enable the chief executive office of a LALC to delegate his or her functions to any member of staff.

47. Schedule 1 [30] amends section 116 of the principal Act to remove from the list of functions of NSWALC that may not be delegated the use, management, control or holding of land vested in or acquired by NSWALC.

#### *Miscellaneous amendments*

48. Schedule 1 [1], [26], [47] and [52] make amendments by way of statute law revision.
49. Schedule 1 [29] substitutes section 110 of the principal Act to replace a target for NSWALC to increase the total number of voting members of LALCs by a specified amount with a more general requirement that NSWALC include in its annual report the actions that it has taken to increase the membership of LALCs.
50. Schedule 1 [51] inserts proposed section 246A into the principal Act to enable the Chairperson of an Aboriginal Land Council to correct mistakes in resolutions of, and certificates issued by, the Council.
51. Schedule 1 [53] amends Schedule 3 to the principal Act to enable the Registrar to call a meeting of a LALC for the purpose of electing a Board if there is no existing Board and no administrator appointed for the LALC.
52. Schedule 1 [54] and [55] amend Schedule 4 to the principal Act to make provision for matters of a savings or transitional nature consequent on the enactment of the proposed Act.

#### **Schedule 2 Amendment of other Act and regulation**

53. Schedule 2.1 amends the *Aboriginal Land Rights Regulation 2002* as a consequence of the amendment of the principal Act. In particular, the following amendments are made to that Regulation:
  54. Schedule 2.1 [1] amends clause 25G as a consequence of the amendment of section 65 of the principal Act in relation to the training of Board members of Local Aboriginal Land Councils.
  55. Schedule 2.1 [2] and [3] amend clauses 31 and 91, respectively, of that Regulation to provide that vacancies in the position of chief executive officer of an Aboriginal Land Council must be advertised in a newspaper circulating in the area of the Council and in a major indigenous newspaper circulating throughout the State.
  56. Schedule 2.1 [4] substitutes clause 95 of that Regulation to specify the qualifications that an auditor must have to be included on the list of auditors that may be appointed by a LALC to verify and certify the financial statements of the LALC.
  57. Schedule 2.1 [6] makes an amendment by way of statute law revision.
58. Schedule 2.2 amends the *National Parks and Wildlife Act 1974* to provide that land vested in more than one Aboriginal Land Council under Part 4A of that Act is vested in those Councils as tenants in common rather than, as at present, joint tenants.
59. Schedule 1 [3] makes a consequential amendment to the principal Act.

## ISSUES CONSIDERED BY COMMITTEE

**Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA**

### *Lack of clarity*

60. Clause 1A(1) of Schedule 4 of the *Aboriginal Rights Act 1983* outlines that the regulations may contain provisions of a savings or transitional nature consequent on the enactment of a list of named Acts. Clause 54 of Schedule 1 of this Bill seeks to insert at the end of that list of Acts “any other Act that amends this Act”.

**The Committee notes that listing “any other Act that amends this Act” rather than listing the name of each of those amending Acts limits the clarity of the Schedule outlined above. The Committee has a preference for the name of each Act being listed to avoid this lack of clarity. As the list relates to the regulation making power pertaining to provisions of a savings or transitional nature, and recognising that the proposed insertion ensures that the Schedule is comprehensive, the Committee makes no further comment on this issue.**

## 2. Heavy Vehicle (Adoption of National Law) Bill 2013

Date introduced	29 May 2013
House introduced	Legislative Council
Minister responsible	The Hon. Duncan Gay MLC
Portfolio	Minister for Roads and Ports

### PURPOSE AND DESCRIPTION

1. The Heavy Vehicle National Law (the *National Law*) provides a scheme to regulate the use of heavy vehicles. Generally speaking, a vehicle is a heavy vehicle if it has a GVM (gross vehicle mass) or ATM (aggregate trailer mass) of more than 4.5 tonnes.
2. The National Law is the subject of an agreement between New South Wales and other participating jurisdictions, under which each jurisdiction has agreed to establish a national system of regulation for heavy vehicles, consisting of uniform laws administered by a single national regulator.
3. The object of this Bill is to apply the text of the National Law as a law of this State. Other jurisdictions participating in the scheme have introduced or propose to introduce similar legislation. The Bill also applies the National Regulations made under the National Law as laws of this State.
4. The text of the National Law is set out in the Schedule to the *Heavy Vehicle National Law Act 2012* (as amended by the *Heavy Vehicle National Law Amendment Act 2013*) of Queensland. A copy of the text of the National Law is appended to the Bill as a note to the Bill.
5. Before the National Law commences it will be necessary to enact legislation providing for the supplementation of and modifications to the National Law as adopted in New South Wales, consequential repeals and amendments of other Acts, and savings and transitional arrangements consequent on the adoption of the National Law.

### BACKGROUND

6. In June 2009, the Council of Australian Governments voted to establish a single national regulator for heavy vehicles, rail safety and marine safety, as well as a national rail safety investigator. New South Wales has already passed applying law for rail safety and domestic commercial vessels, thus leaving only heavy vehicles to attend to. The Heavy Vehicle National Law received Royal Assent in Queensland on 26 February 2013, paving the way for other jurisdictions to follow suit. The Bill implements the NSW Government's commitment to the national reforms and to the establishment of the National Heavy Vehicle Regulator in New South Wales.

## OUTLINE OF PROVISIONS

### Part 1 Preliminary

7. Clause 1 sets out the name (also called the short title) of the proposed Act.
8. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.
9. Clause 3 contains definitions of terms used in the proposed Act.

### Part 2 Application of Heavy Vehicle National Law and *National Regulations*

10. Clauses 4 and 5 apply the National Law and National Regulations as laws of this State.
11. Clause 6 excludes certain Acts of this State from applying in relation to the National Law and National Regulations, except where functions are exercised by a government sector agency or a government sector employee of this State. Accordingly, those Acts will not apply to the national regulator.
12. Clause 7 provides that the Ombudsman Act 1974 applies to functions of the national regulator exercisable in relation to this State.
13. Clause 8 provides for the scrutiny and review of National Regulations in this State. However, if a National Regulation is disallowed in this State, the regulation does not cease to have effect in this State unless the regulation is disallowed in a majority of the participating jurisdictions.

### Part 3 Meaning of terms for Heavy Vehicle National Law (NSW) and National Regulations (NSW)

14. Clause 9 contains definitions of terms used in the National Law and National Regulations.
15. Clauses 10–14, 16–19, 21 and 22 make declarations of local entities and matters for the purposes of the National Law, as contemplated by the National Law.
16. Clause 15 nominates the Minister administering the proposed Act as the responsible Minister for this jurisdiction, as contemplated by the National Law.
17. Clause 20 makes it clear that the meaning given by section 9 of the National Law to terms relating to convictions for offences does not apply to other laws of this jurisdiction.

### Part 4 Registration of heavy vehicles

18. Clauses 23–25 provide that Chapter 2 of the National Law, which provides a scheme for the registration of heavy vehicles, is not adopted in this State until a day to be proclaimed. Provisions will be proposed to continue the scheme for registration under current legislation of this State and for its operation to be integrated with the other provisions of the National Law.

## Part 5 Offences and legal proceedings

19. Clause 26 specifies the persons who will be able to commence proceedings for an offence against the National Law or the National Regulations.
20. Clause 27 provides for evidence concerning the speed of a heavy vehicle obtained under the Road Transport Act 2013 to be admissible in proceedings for an offence against the National Law or the National Regulations.

## Part 6 Miscellaneous

21. Clause 28 enables regulations to be made in this jurisdiction, including regulations modifying the National Regulations in their application to this State.

## Schedule 1 Savings, transitional and other provisions

22. The Schedule contains a power for the regulations under the proposed Act to contain provisions of a savings or transitional nature. It is intended that further provisions may be included in the Schedule at a later time.

## ISSUES CONSIDERED BY COMMITTEE

### Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

#### *Increase in penalties*

23. The Bill increases a number of current maximum penalties that currently apply to individuals. Examples of these increases include:
  - A person who drives a fatigue-regulated heavy vehicle on a road whilst impaired by fatigue: from \$2,200<sup>1</sup> to \$6,000<sup>2</sup>
  - Breaching standard hours of driving: minor offences increased from \$1,100 to \$4,000, substantial offences increased from \$1,650 to \$6,000, severe breaches increased from \$2,200 to \$10,000 and critical breaches increased from \$2,750 to \$15,000<sup>3</sup>
  - Keeping relevant paperwork: from \$1,650 to \$3,000<sup>4</sup>
  - Failure to follow proper process if work diary stolen or lost: from \$1,650 to \$3,000<sup>5</sup>
  - Including false or misleading entries in a work diary: from \$1,650 to \$10,000<sup>6</sup>

**The Committee notes that a number of the penalties imposed on individuals included in the National Law represent a substantial increase when compared with the penalties currently imposed. However, given the safety objectives of**

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<sup>1</sup> Part 6, subclause 45(1) *Road Transport (General) Regulation 2005*

<sup>2</sup> Subclause 228(1) of the Bill

<sup>3</sup> As outlined in clause 64 of the *Road Transport (General) Regulation 2005* and section 250 of the Bill

<sup>4</sup> As outlined in clause 75 of the *Road Transport (General) Regulation 2005* and section 287 of the Bill

<sup>5</sup> As outlined in clause 78 of the *Road Transport (General) Regulation 2005* and section 308 of the Bill

<sup>6</sup> As outlined in clause 84 of the *Road Transport (General) Regulation 2005* and section 325 of the Bill

**the Bill, and noting that the proposed legislation is National Law, the Committee makes no further comment on this issue.**

*Limited defence*

24. A person charged with an offence in relation to a duty to prevent, or not to cause, a driver driving while fatigued (sections 229 – 238, 261, 264, of the Bill) does not have the benefit of the mistake of fact defence for the offence. This defence is also denied to drivers who work more than the maximum work time or who rests for less than the minimum rest time, and fails to keep appropriate records and permits (sections 250, 251, 254, 256, 258, 260, 263, 287, 288, 293).

**The Committee notes that the defence of mistake of fact is not available to persons charged with an offence in relation to the prevention and causation of a driver driving whilst fatigued, or a failure to work and rest at the appropriate times. Given the safety objectives of this Bill, the Committee makes no further comment on this issue.**

*Right against self-incrimination*

25. Proposed sections 568, 569, 570, 577 and 587 give authorised officers powers to require persons to produce documents and other things or to take action to ensure compliance with the National Law. Under the provisions, a person has to comply with such a requirement even if it might incriminate them or make them liable to a penalty.
26. Proposed section 588 provides that any information given by a person in compliance with requirements made by authorised officers under sections 569(1)(c) to (f), 570 or 577 can be admissible in evidence against the individual in criminal proceedings even if it might incriminate them.

**In the Committee's view, requiring a person to provide information that may incriminate them and then potentially using that information against them in criminal proceedings could impact on that person's right against self-incrimination. However, given that the proposed legislation is National Law and in light of the safety objectives of the Bill, the Committee makes no further comment on this issue.**

**Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA**

*Commencement by Proclamation*

27. Section 2 of the Bill provides that the Bill is to commence on proclamation. This Committee has generally expressed a preference that legislation commences either on a fixed date or on assent.
28. However, given that this Bill requires the participation of a number of jurisdictions, it appears that a number of administrative and technical arrangements need to be established before the legislation can take effect. In this respect, the Committee does not consider the commencement by proclamation to be unreasonable in the circumstances.

**Although the Committee generally prefers that legislation commences either on a fixed date or on assent, given the administrative arrangements required**

**before the legislation can take effect, the Committee does not consider the commencement by proclamation to be unreasonable in the circumstances.**

**Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA**

*Reference to an Interstate Jurisdiction*

29. Section 4 of the Bill provides that the Heavy Vehicle National Law, as periodically amended, set out in the Schedule of the Queensland Act is to apply as a law within the jurisdiction of NSW and will apply as if it was an Act of NSW.
30. The effect of this provision will be to subject NSW law to the laws established by an interstate jurisdiction, thereby denying the NSW Parliament from sufficient scrutiny of any amendment bills to the National Law that could be introduced in the Queensland Parliament.
31. However, the Committee notes that the nature of cooperative federalism will at times require one jurisdiction to establish model legislation, with other jurisdictions applying that law by reference to the model legislation. The Committee also notes that the National Law is a creature of the Council of Australian Governments, and will only likely be amended through agreement of all participating jurisdictions.

**Although this Bill will remove the ability of the NSW Parliament from scrutinising any subsequent amendment bills to the Heavy Vehicle National Law, the Committee recognises that the nature of cooperative federalism and design of model legislation will often require that one jurisdiction take the lead on model legislation, with other jurisdictions providing reference to the model legislation. The Committee makes no further comment on this issue.**



### 3. Local Government Amendment (Conduct of Elections) Bill 2013

Date introduced	29 May 2013
House introduced	Legislative Council
Minister responsible	The Hon. Greg Pearce MLC
Portfolio	Finance and Services

#### PURPOSE AND DESCRIPTION

1. The object of this Bill is to provide more flexible arrangements for the administration of local council elections by the Electoral Commissioner in place of the existing arrangements that require a council to decide whether to have the Electoral Commissioner administer its elections within 12 months after the previous ordinary election of councillors and that only permit an arrangement for all of a council's elections to be administered by the Electoral Commissioner.

#### BACKGROUND

2. In 2011, amendments were implemented to enhance the autonomy of local government by allowing councils to conduct their own elections, constitutional referendums and polls, while maintaining the option of engaging the Electoral Commissioner should councils wish to do so. This enabled 14 councils to conduct their own elections in September 2012.
3. As amended in 2011, the Act provides that a council may, within 12 months after an ordinary election, resolve to enter into a contract or make arrangements, with the Electoral Commissioner to administer all elections for the council.
4. Given the practical impacts of the current provisions are to bind a council to make a decision whether to use the services of the Electoral Commissioner more than three years in advance, it was considered that the current timeframes do not allow councils sufficient time to test the market and make a fully informed decisions about an event that is to occur three years in the future.

#### OUTLINE OF PROVISIONS

5. Clause 1 sets out the name (also called the short title) of the proposed Act.
6. Clause 2 provides for the commencement of the proposed Act on the date of assent.
7. Schedule 1 [1] provides for the following arrangements for council elections to be administered by the Electoral Commissioner:
  - (a) a council will be able to enter into an arrangement for all of its elections to be administered by the Electoral Commissioner but such an arrangement must be entered into no later than 15 months before the next ordinary election and the council

resolution to authorise such an arrangement must be passed at least 18 months before the next ordinary election,

(b) a council will be able to enter into an arrangement at any time for a particular election (other than an ordinary election) to be administered by the Electoral Commissioner,

(c) a council will be able to enter into an arrangement for an ordinary election to be administered by the Electoral Commissioner less than 15 months before the election but only if the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner,

(d) an arrangement for all of a council's elections to be administered by the Electoral Commissioner can be terminated by the Electoral Commissioner or the council after the next ordinary election and will be terminated automatically 18 months before the next ordinary election after that,

(e) the first election for an area after its constitution will be administered by the Electoral Commissioner.

8. Schedule 1 [2] omits a transitional provision that will be made redundant by the proposed amendments.
9. Schedule 1 [3] inserts a transitional provision that will terminate existing contract or arrangements for the Electoral Commissioner to administer a council's elections (with termination being delayed until after any pending election for which the Electoral Commissioner has already begun to make preparations).

## ISSUES CONSIDERED BY COMMITTEE

**The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.**

## 4. Local Land Services Bill 2013

Date introduced	28 May 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Katrina Hodgkinson MP
Portfolio	Minister for Primary Industries and Minister for Small Business

### PURPOSE AND DESCRIPTION

1. The objects of this Bill are as follows:
  - (a) to establish a statutory corporation (to be known as Local Land Services) to administer, deliver and fund certain programs and services associated with agricultural production, biosecurity, natural resource management and emergency management and to exercise other land service related functions,
  - (b) to establish local boards for the purpose of devolving operational management and planning functions to regional levels to facilitate targeted local delivery of programs and services,
  - (c) to repeal the *Rural Lands Protection Act 1998*, re-enact Parts 8–13 of that Act (and related Schedules) and confer certain functions under those provisions on Local Land Services,
  - (d) to repeal the *Catchment Management Authorities Act 2003*,
  - (e) to make consequential amendments to certain other Acts and statutory rules.

### BACKGROUND

2. In February 2012, Mr Terry Ryan released his report entitled, *Report on the review of the NSW Livestock Health and Pest Authority model*, which arose from a review that was commissioned by the Minister for Primary Industries. The Report made 13 recommendations that focused on ensuring that the Local Health and Pest Authority model worked more effectively in the future.
3. The Local Land Services Bill arises partly from the recommendations made in Mr Ryan's report. However, more recently, the Local Land Services Stakeholder Reference Panel was given the task of overseeing stakeholder consultation in relation to the reforms to agricultural services proposed by the Bill. These are the largest reforms to agricultural services since the 1940s.

### OUTLINE OF PROVISIONS

#### Part 1 Preliminary

4. Clause 1 sets out the name (also called the short title) of the proposed Act.

5. Clause 2 provides for the commencement of the proposed Act on 1 January 2014, except for certain transitional provisions.
6. Clause 3 sets out the objects of the proposed Act.
7. Clause 4 defines the term *local land services* for the purposes of the proposed Act. In general, local land services are programs and advisory services associated with agricultural production, biosecurity, natural resource management and emergency management.
8. Clause 5 provides that certain words and expressions are defined in the Dictionary to the proposed Act.
9. Clause 6 provides that for the purposes of the proposed Act, the State is divided into the regions described or identified in Schedule 1 to the proposed Act.
10. Clause 7 provides for the abolition, establishment, amalgamation or change of name or boundaries of regions by Ministerial order.

## **Part 2 Local Land Services**

### *Division 1 Constitution and management of Local Land Services*

11. Clauses 8–13 constitute Local Land Services as a body corporate and deal with its management, control and staff. All decisions relating to the functions of Local Land Services are to be made by or under the authority of the Board of Chairs (the Board). The Chair of the Board of Chairs is responsible for the day-to-day management of the affairs of Local Land Services subject to the policies and directions of the Board.

### *Division 2 Functions of Local Land Services*

12. Clauses 14–18 provide for the general functions of Local Land Services and provide for the delegation of functions by Local Land Services and other persons and bodies.

### *Division 3 Finance and audit*

13. Clauses 19–24 contain provisions dealing with certain financial and audit matters, including:
  - (a) the establishment of a Local Land Services Fund, and
  - (b) investment powers in respect of those Funds, and
  - (c) fees for services supplied by Local Land Services, and
  - (d) provisions relating to annual reports and audits of Local Land Services.

## **Part 3 The Board and local boards**

### *Division 1 The Board of Chairs*

14. Clauses 25 and 26 provide for the establishment and functions of the Board of Chairs. The Board is to consist of the following members:
  - (a) the Chair of the Board of Chairs,

- (b) the chair of each local board,
- (c) such other persons with relevant skills and experience as may be appointed by the Minister administering the proposed Act (the Minister) as non-voting members.

#### *Division 2 Local boards*

- 15. Clauses 27–33 deal with the establishment, constitution and functions of local boards for regions. In general, a local board for a region is to be constituted by 7 members, being 3 members elected in accordance with the regulations and 4 members appointed by the Minister. Special provisions apply in relation to the local board for the Western Region.
- 16. The proposed Division also contains provisions dealing with delegations, provision of information to the community and the Board and the establishment of local community advisory groups for regions.

#### *Division 3 Honesty and conduct*

- 17. Clauses 34 and 35 contain provisions:
  - (a) requiring the honest and diligent conduct of members of the Board and local boards, and
  - (b) that provide that the Board may issue a code of conduct to be observed by all members of the Board and local boards.

### **Part 4 Planning the delivery of local land services**

#### *Division 1 State strategic plan*

- 18. Clauses 36–44 deal with the preparation and approval of State strategic plans for local land services in the State. Local Land Services is to prepare a draft State strategic plan and submit it to the Minister for approval. A State strategic plan is to contain:
  - (a) the outcomes that are expected to be achieved by the implementation of the plan and the timeframes for achieving those outcomes, and
  - (b) requirements for reporting on whether those outcomes and timeframes have been achieved, and
  - (c) any other matters that the Minister may direct to be included in the plan.

#### *Division 2 Local strategic plans*

- 19. Clauses 45–54 deal with the preparation and approval of local strategic plans for local land services in the regions. A local board is to prepare a draft local strategic plan and refer it to Local Land Services for review. A draft plan is to be submitted to the Minister for approval. A local strategic plan is to contain:
  - (a) the outcomes that are expected to be achieved by the implementation of the plan and the timeframes for achieving those outcomes, and
  - (b) requirements for reporting on whether those outcomes and timeframes have been achieved, and

- (c) any other matters that the Minister may direct to be included in the plan.

### **Part 5 Rates, levies and contributions**

20. Clauses 55–57 contain provisions dealing with the imposition of rates, levies and contributions. Local Land Services may make and levy, in accordance with the regulations, such types and amounts of rates, levies and contributions on rateable or other land in a region as are prescribed by, or determined in accordance with, the regulations. See Parts 2 and 4 of the proposed regulation in Schedule 9 to this Bill for provisions relating to rates and catchment contributions. These provisions substantially mirror provisions relating to those matters in the *Rural Lands Protection Act 1998* and the *Catchment Management Authorities Act 2003*.
21. Clauses 58–60 contain provisions that deal with annual returns and the supply of information in respect of land and stock. The provisions substantially mirror sections 76–78 of the *Rural Lands Protection Act 1998*.

### **Part 6 Travelling stock reserves and public roads**

22. Clauses 61–105 deal with travelling stock reserves and public roads and substantially mirror the provisions of Part 8 of the *Rural Lands Protection Act 1998*.

### **Part 7 Stock watering places**

23. Clauses 106–113 deal with stock watering places and substantially mirror the provisions of Part 9 of the *Rural Lands Protection Act 1998*.

### **Part 8 Impounding of unattended and trespassing stock and abandoned articles**

24. Clauses 114–117 deal with the impounding of unattended and trespassing stock and abandoned articles and substantially mirror the provisions of Part 10 of the *Rural Lands Protection Act 1998*.

### **Part 9 Transportation of stock by vehicle**

25. Clauses 118–127 deal with the transportation of stock by vehicle and substantially mirror the provisions of Part 10A of the *Rural Lands Protection Act 1998*.

### **Part 10 Pests**

26. Clauses 128–163 deal with the control and eradication of pests and substantially mirror the provisions of Part 11 of the *Rural Lands Protection Act 1998*.

### **Part 11 Powers of authorised officers**

27. Clauses 164–181 deal with the powers of authorised officers under the proposed Act and substantially mirror the provisions of Part 12 of the *Rural Lands Protection Act 1998*.

### **Part 12 Enforcement provisions**

28. Clauses 182–197 deal with the enforcement of the proposed Act and substantially mirror the provisions of Part 13 of the *Rural Lands Protection Act 1998*.

### **Part 13 Administration of functions of Local Land Services or local board**

29. Clauses 198–200 deal with the appointment of an administrator to carry out all or some of the functions of Local Land Services or a local board. An administrator may be appointed if the Board or local board has failed to comply with any direction of the Minister concerning, or to carry out to the satisfaction of the Minister, any of its functions. The provisions are similar to the provisions of Part 14 of the Rural Lands Protection Act 1998.

### **Part 14 Miscellaneous**

30. Clauses 201–211 contain a number of miscellaneous provisions dealing with matters including the following:

- (a) the acquisition of land,
- (b) entry onto land for construction of works and for other purposes,
- (c) the issue of certificates as to rates, charges and other matters,
- (d) orders to owners to muster stock,
- (e) protection from personal liability of certain persons for actions or omissions done in good faith,
- (f) the making of regulations for the purposes of the proposed Act,
- (g) the making of regulations regarding exemptions from certain parts of the proposed Act,
- (h) service of documents,
- (i) the repeal of:
  - i the *Rural Lands Protection Act 1998*, the *Rural Lands Protection Amendment Act 2008* and the *Rural Lands Protection Regulation 2010*, and
  - ii the *Catchment Management Authorities Act 2003* and the *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010*,
- (j) the review of the proposed Act.

### **Schedule 1 Local Land Services regions**

31. Schedule 1 contains a map that identifies the Local Land Services regions into which the State is divided.

### **Schedule 2 Constitution and procedure of Board and local boards**

32. Schedule 2 contains provisions dealing with the constitution and procedure of the Board and local boards.

### **Schedule 3 Charges on land for unpaid amounts**

33. Schedule 3 contains provisions relating to charges on land for unpaid amounts relating to fencing and pest eradication. The provisions of this Schedule substantially mirror the provisions of Schedule 4 to the *Rural Lands Protection Act 1998*.

### **Schedule 4 Administrators**

34. Schedule 4 contains provisions relating to administrators. The provisions of this Schedule substantially mirror the provisions of Schedule 3 to the *Rural Lands Protection Act 1998*.

### **Schedule 5 Sale of land for unpaid money owing to Local Land Services**

35. Schedule 5 contains provisions relating to the sale of land for unpaid money owing to Local Land Services relating to fencing and pest eradication. The provisions of this Schedule substantially mirror the provisions of Schedule 5 to the *Rural Lands Protection Act 1998*.

### **Schedule 6 Savings, transitional and other provisions**

36. Schedule 6 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

### **Schedule 7 Amendment of Acts and regulations**

37. Schedule 7 amends the Acts and regulations specified in the Schedule.

### **Schedule 8 Amendment of water sharing plans**

38. Schedule 8 amends the water sharing plans specified in the Schedule.

### **Schedule 9 Local Land Services Regulation 2014**

39. Schedule 9 contains the proposed *Local Land Services Regulation 2014*. The proposed regulation deals with the following:
- (a) rates (Part 2),
  - (b) annual returns (Part 3),
  - (c) catchment contributions (Part 4),
  - (d) travelling stock reserves and public roads (Part 5),
  - (e) stock watering places (Part 6),
  - (f) the impounding of unattended and trespassing stock and abandoned articles (Part 7),
  - (g) the transportation of stock by vehicle (Part 8),
  - (h) pests (Part 9),
  - (i) the powers of authorised officers (Part 10),
  - (j) the election and appointment of members of local boards (Part 11 and Schedule 1),



- (k) stock identification (Part 12),
  - (l) the prescription of penalty notice offences and the corresponding penalty notice amounts (Schedule 2),
  - (m) matters of a machinery or miscellaneous nature (Parts 1 and 13).
40. The proposed regulation contains provisions that substantially mirror provisions contained in Part 7 of the *Rural Lands Protection Act 1998*, Parts 3–10 of the *Rural Lands Protection Regulation 2010* and Parts 2–4 of the *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010*.

### Dictionary

41. The Dictionary to the proposed Act defines certain terms and expressions used in the Act.

### ISSUES CONSIDERED BY COMMITTEE

**The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.**

## 5. Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013

Date introduced	30 May 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Robyn Parker MP
Portfolio	Minister for the Environment

### PURPOSE AND DESCRIPTION

1. The objects of this Bill are to amend the *Protection of the Environment Operations Act 1997* for the following purposes:
  - (a) to create an offence of knowingly supplying false or misleading information about waste in the course of dealing with the waste that will be punishable by a maximum period of imprisonment of 18 months as an alternative or in addition to a maximum fine of \$500,000 for a corporation and \$240,000 for an individual (at present the offence is a strict liability offence that is punishable only by a maximum fine of \$250,000 for a corporation and \$120,000 for an individual),
  - (b) to create an offence of committing a strict liability waste offence (which includes polluting waters with waste, polluting land, illegally dumping waste or using land as an illegal waste facility) within 5 years of any previous conviction for such an offence that will be punishable by a maximum period of imprisonment of 2 years as an alternative or in addition to a fine (at present a strict liability waste offence is punishable only by a fine),
  - (c) to authorise the EPA to seize a motor vehicle or vessel it has reason to believe has been used to commit any such repeat waste offence and to enable the Land and Environment Court to order the forfeiture of the motor vehicle or vessel to the State if it convicts the person of the repeat waste offence,
  - (d) to extend the offence of using land as a waste facility without lawful authority to using any place so as to cover illegally using a body of water as a waste facility,
  - (e) to remove from the Act the exemption from payment of the contribution by licensees of waste facilities used for the re-using, recovering, recycling or processing waste other than liquid waste, so that the operation of any such exemption can be dealt with in the regulations,
  - (f) to enable the regulations to prescribe a protocol that is to be used in determining the amount that represents the monetary benefit acquired by the offender in committing an offence and that the offender may be ordered to pay as an additional penalty for the offence,

- (g) to make consequential or related amendments.

## BACKGROUND

2. The Bill arises against the backdrop of some striking examples of illegal waste dumping that occurred in NSW recently. For example, one waste operator dumped truckloads of asbestos outside two inner Sydney preschools. Another waste operator dumped nearly 80 tonnes of building waste laced with asbestos on private property in breach of a court order not to illegally dispose of waste.
3. The Government also estimates that it currently loses approximately \$100 million each year from clean-up costs, unpaid waste levies, and incidents of illegal waste disposal that cause significant and long-lasting environmental harm.

## OUTLINE OF PROVISIONS

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

### **Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156**

6. Schedule 1 [1] amends section 88 of the Act to give effect to the object outlined in paragraph (e) of the purpose and description of the Bill, above.
7. Schedule 1 [2] amends section 144 of the Act to give effect to the object outlined in paragraph (d) of the purpose and description of the Bill, above. Schedule 1 [7] makes a consequential amendment.
8. Schedule 1 [3] amends section 144AA of the Act to give effect to the object outlined in paragraph (a) of the purpose and description of the Bill, above. Schedule 1 [4] makes a consequential amendment.
9. Schedule 1 [5] inserts proposed section 144AB into the Act to give effect to the object outlined in paragraph (b) of the purpose and description of the Bill, above.
10. Schedule 1 [6] inserts proposed Part 7.6A into the Act to give effect to the object outlined in paragraph (c) of the purpose and description of the Bill, above.
11. Schedule 1 [8] amends section 249 of the Act to give effect to the object outlined in paragraph (f) of the purpose and description of the Bill, above.
12. Schedule 1 [9] enables savings and transitional provisions to be made consequent on the enactment of any Act that amends the *Protection of the Environment Operations Act 1997* (including the proposed Act).

### **Schedule 2 Amendment of Protection of the Environment Administration Act 1991 No 60**

13. Schedule 2 makes a consequential amendment relating to the objects outlined in paragraphs (a) and (b) of the purpose and description of the Bill, above.

## ISSUES CONSIDERED BY COMMITTEE

### Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

#### *Strict liability offence*

14. The Bill proposes to insert a new section 144AB into the *Protection of the Environment Operations Act 1997* to create an offence for repeat waste offenders. A person can be liable for an offence under the proposed section if they have previously been convicted of a waste offence under sections 120(1), 142A(1), 143(1) or 144(1) of the Act and they commit a further offence within five years of that conviction. These offences are strict liability offences.

**The Committee notes that the maximum penalties for an offence under proposed section 144AB include a monetary penalty of up to \$250,000 for individuals or imprisonment for two years, or both. The Committee notes that the proposed offence will only apply to repeat waste offenders. Nevertheless, the Committee considers that a term of imprisonment is a significant penalty for committing a strict liability offence and therefore refers this issue to Parliament for further consideration.**

### Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

#### *Commencement by proclamation*

15. Clause 2 of the Bill provides that the Act commences on a day or days to be appointed by proclamation.

**Given that most of the provisions of the Bill deal with circumstances where a person has committed a repeat waste offence, the Committee makes no further comment on the commencement of the Bill by proclamation.**

## 6. Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2013

Date introduced	29 May 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Jillian Skinner MP
Portfolio	Health

### PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Public Health Act 2010* to prevent the enrolment of children at child care facilities unless immunisation certificates proving vaccination, or certificates as to conscientious objection to vaccination or medical contraindication for vaccination, are provided to principals of child care facilities.
2. The Bill also requires such certificates to be kept as part of each child's immunisation record by a child care facility.

### BACKGROUND

3. Despite the fact that up to 92 per cent of five year old children are vaccinated, there are regions of NSW where there are low vaccination coverage rates. In particular, parts of the North Coast have only 70 per cent of infants as fully vaccinated, and parts of Sydney where coverage rates are between 83 per cent and 85 per cent.
4. The relatively low coverage rates in some regions can be explained through a variety of factors, including complacency, a lack of awareness about the ongoing risks posed by failure to vaccinate, and misleading and deceptive campaigns by high-profile groups opposed to vaccination.
5. When failure to vaccinate results in a fall below 'herd immunity', it potentially exposes unvaccinated children to renewed outbreaks of measles, mumps, whooping cough, and other deadly diseases.

### OUTLINE OF PROVISIONS

6. Clause 1 sets out the name (also called the short title) of the proposed Act.
7. Clause 2 provides for the commencement of the proposed Act on 1 January 2014 or such other day as may be appointed by a proclamation made before that day.
8. Schedule 1 [4] places a restriction on the enrolment of children at child care facilities unless vaccination evidence is provided. A principal of a child care facility must not enrol a child, or permit a child to enrol, at the child care facility unless the principal has been provided with an immunisation certificate indicating the child is age appropriately

immunised or a certificate indicating that the child is following an approved catch-up schedule or certificates relating to diseases not covered by such certificates.

If the child is not vaccinated or being vaccinated for any specified vaccine preventable disease, certificates relating to conscientious objection to vaccination or medical contraindication for vaccination for that disease must be provided before enrolment. A certificate as to conscientious objection is to contain both a certification by the parent of the child as to the objection and a certification by an authorised practitioner that the practitioner has explained the benefits and risks of immunisation to the parent and has informed the parent of the potential danger of not immunising. Regulations may be made requiring the principal of a child care facility to request parents to provide the certificates at other times.

The principal of a child care facility will also be required to keep an immunisation register containing information about the immunisation status of each child at the child care facility and also the certificates provided to the principal. There will be an obligation on the principal to provide the certificates to parents and other principals for the purpose of the enrolment of children at other child care facilities. The Chief Health Officer may publish guidelines to assist authorised practitioners giving certificates relating to vaccination.

Currently, the principal of a child care facility is required only to ask for evidence of a child's immunisation status on enrolment and there is no restriction on enrolment if such evidence is not provided or insufficient evidence is provided.

9. Schedule 1 [1] defines authorised practitioner as meaning a medical practitioner or a member of a class of health practitioners prescribed by the regulations. Authorised practitioners are required to issue some of the certificates relating to vaccination that may be required for child care enrolment. The amendment also defines NSW Immunisation Schedule.
10. Schedule 1 [2] and [3] make consequential amendments for the purpose of enabling references in the provisions relating to immunisation certificates and other certificates to include references to copies of such certificates.
11. Schedule 1 [5] makes a consequential amendment.
12. Schedule 1 [6] enables regulations to be made containing savings and transitional provisions consequent on the enactment of any Act that amends the Public Health Act 2010.

## ISSUES CONSIDERED BY COMMITTEE

### **Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA**

#### *Privacy*

13. The Bill places a restriction on the enrolment of children at child care facilities unless vaccination evidence is provided, with a couple of strictly defined exemptions. One of those exemptions provided for under proposed section 87(2)(a) is where a certificate is provided in an approved form that provides that a child should be exempted from one or more specified vaccines, due to a medical contraindication to vaccination. This may

include the child's possible cancer, HIV status, or other disease affecting the immune system.

14. Although the Committee is unaware what details will be required in the certificate, it is possible that sensitive medical information of the child will be required to be disclosed in order to be compliant with the legislation or any regulation under the legislation.
15. The Committee is mindful of the privacy implications on a child with a medical condition in which the child, or their parents, may not wish to disclose, or would otherwise not be required to disclose but for the disclosure requirements under this Bill.
16. However, the Committee is also aware of the broader public health requirements of ensuring maximum vaccination coverage, and the Committee recognises that measures need be put in place to ensure the integrity of the overall vaccination policy, including the integrity of any exemptions granted due to medical contraindications.

**The Committee notes that the Bill may require the disclosure of sensitive medical information that may interfere with the privacy of the child. However, the Committee is also aware of the broader public health requirements of ensuring maximum vaccination coverage, and ensuring the integrity of any exemptions granted, including exemptions relating to medical contraindications. The Committee makes no further comment.**

#### *Right to Education*

17. Schedule 1[4] provides that the principal of a child care facility must not enrol a child, or permit a child to enrol, at the child care facility unless a vaccination certificate is provided. The effect of this provision would be to deny unvaccinated children, or children not sufficiently vaccinated, from participating in learning activities of the child care facility and limit their access to education.
18. However, the Committee notes that not allowing unvaccinated children from enrolling is in the best interests of all children at the child care facility, including that of the unvaccinated child, especially when there is an outbreak of a disease otherwise preventable by vaccination. On the balance of public interests, the Committee does not consider this provision to be unreasonable in the circumstances.

**Although this Bill may affect an unvaccinated child's access to education, given the broader public health interest at stake – including the health interests of an unvaccinated child – the Committee does not consider this provision to be unreasonable in the circumstances.**

#### **Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA**

##### *Commencement by Proclamation*

19. Proposed section 2 provides that this Bill is to commence operation on 1 January 2014 or, if another day is appointed by a proclamation made before 1 January 2014, on that other day. The Committee has always expressed a preference that legislation commences operation either on a fixed date or on assent, especially when it may impact on individuals, such as the enrolment of children in child care facilities.

20. In this instance, parents of a child may need advance notice to ensure their children are sufficiently vaccinated before the policy takes effect, and to ensure their children are not denied enrolment at a child care facility.

**The Committee notes this Bill may commence by proclamation, which may impact on the ability of parents to ensure their children are fully vaccinated before the legislation takes effect.**



## 7. State Revenue Legislation Amendment Bill 2013

Date introduced	29 May 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Mike Baird MP
Portfolio	Treasurer

### PURPOSE AND DESCRIPTION

1. The objects of this Bill are as follows:

(a) to amend the *Duties Act 1997*:

- i to make further provision for duty on transfers of options to purchase land, including to prevent avoidance practices, and
- ii to make further provision for the duty on transfers of mining tenements or land subject to a mining tenement, and
- iii to refine the power of the Chief Commissioner of State Revenue (the *Chief Commissioner*) to grant exemptions from landholder duty, and
- iv to specify a time limit for the lodging of landholder acquisition statements, and
- v to remove a landholder duty concession that applies to acquisitions in a landholder that holds land used for primary production, and
- vi to specify new exceptions to rules relating to the aggregation of interests of related persons and associated persons, and
- vii to make other minor miscellaneous amendments,

(b) to amend the *Land Tax Management Act 1956*:

- i to specify additional rules that a unit trust must comply with to be treated as a fixed trust for land tax purposes, and
- ii to update and clarify various land tax exemptions, and
- iii to change the land tax rules for life estates, to prevent avoidance practices, and
- iv to simplify the land tax concession that applies when a person acquires a new principal place of residence, and

- v to simplify the land tax concession that applies when a person is absent from his or her principal place of residence,
- (c) to amend the *Tax Administration Act 1996* to make further provision for the liability of directors for unpaid corporate tax.

## BACKGROUND

2. The State Revenue Legislation Amendment Bill 2013 is part of the Government's ongoing program of maintaining legislation governing taxes administered by the Office of State Revenue. The Bill clarifies the liability to and exemption from duties and land tax, and includes measures to maximise the State's tax revenue. The Bill amends three taxation Acts: the *Duties Act 1997*, the *Land Tax Management Act 1956* and *Tax Administration Act 1996*.

## OUTLINE OF PROVISIONS

3. Clause 1 sets out the name (also called the short title) of the proposed Act.
4. Clause 2 provides for the commencement of the proposed Act.

### Schedule 1 Amendment of Duties Act 1997 No 123

#### *Transfers of options to purchase land*

5. Schedule 1 [1] and [2] ensure that certain transactions involving options to purchase land are dutiable in the same way as transfers of options to purchase land. The amendments provide that a transfer of an option to purchase land in New South Wales is taken to occur if, for valuable consideration:
  - (a) the option holder nominates another person to exercise the option, or
  - (b) the option holder nominates another person as purchaser or transferee of the land the subject of the option on or before the exercise of the option, or
  - (c) the option holder agrees to a novation of the option, or otherwise relinquishes his or her rights under the option, so that another person obtains a right to purchase the land.
6. Schedule 1 [3] provides that the consideration for a transfer of dutiable property that occurs when an option to purchase land is exercised is taken to include the amount or value of the consideration provided by the transferee for the option.
7. Schedule 1 [6] ensures that the duty chargeable in respect of a transfer of dutiable property that occurs on the exercise of an option to purchase land is reduced by the amount of duty (if any) paid by the transferee on the transfer of the option to the transferee.

#### *Mining tenements*

8. Schedule 1 [20] provides that a mining tenement in relation to land is taken to give the holder an interest in land. An interest in land is dutiable property and, accordingly, a transfer of an interest in land is subject to duty. An interest in land is also treated as land holding of a landholder for the purposes of landholder duty. At present, only mining

leases and mineral claims are treated as interests in land. As a result of the amendment, assessment leases, exploration licences and opal prospecting licences will also be regarded as giving the holder an interest in land. Schedule 1 [17] is a consequential amendment.

9. Schedule 1 [4] requires the unencumbered value of an interest in land arising because of a mining tenement to be determined having regard to any information about the land.

#### *Landholder duty*

10. Schedule 1 [15] repeals a provision that gives the Chief Commissioner a general discretion to exempt or partially exempt an acquisition from landholder duty.
11. That general discretion is replaced by 2 new exemptions of a more targeted nature. The first new exemption applies when property is held for the benefit of a beneficiary of a discretionary trust. Generally, a beneficiary of a discretionary trust is taken to own property the subject of the trust. The Chief Commissioner is given a discretion to waive that rule if the Chief Commissioner is satisfied it would be inequitable in the circumstances. See Schedule 1 [10] and [11].
12. The second new exemption applies when an acquisition in a landholder is made as part of one arrangement involving several acquisitions of the same or part of the same land holding. The Chief Commissioner is given a discretion to exempt an acquisition if satisfied that to charge duty in the circumstances would result in double duty or multiple duty. See Schedule 1 [13].
13. Schedule 1 [9] requires an acquisition statement for an acquisition that is subject to duty to be lodged with the Chief Commissioner within 3 months after it is made.
14. Schedule 1 [14] repeals a duty concession that applies when an acquisition is made in a landholder that holds land used for primary production. As a consequence, an acquisition of an interest in a landholder that is a primary producer will be subject to duty whether or not the landholder is land rich. The general rule (that the landholder must have land holdings in NSW with a threshold value of \$2,000,000 or more) will still apply.

#### *Aggregation of interests*

15. The *Duties Act 1997* provides for the aggregation of the interests of related persons and associated persons in certain circumstances, as a means of preventing duty avoidance practices.
16. Schedule 1 [18] ensures that a natural person, or a private company, and a trustee of a discretionary trust are not automatically treated as related persons if the natural person or private company is a beneficiary of the trust.
17. Schedule 1 [19] ensures that the trustee of a complying superannuation fund and another trustee of a complying superannuation fund are considered to be associated persons by reason of having a common beneficiary, only if a member of the first fund (either alone or together with other members of the first fund who are related persons) has an interest in the other fund of more than 20%.

*Other amendments*

18. Schedule 1 [7] and [12] update definitions of *matrimonial property* and *relationship property* to reflect the power of the Family Court to order that property be treated as property of parties to a marriage or de facto relationship.
19. Schedule 1 [5] and [8] make minor amendments of a statute law revision nature.
20. Schedule 1 [16] provides for savings and transitional matters.

**Schedule 2 Amendment of Land Tax Management Act 1956 No 26**

*Fixed trusts*

21. Land that is subject to a fixed trust enjoys the benefit of a tax free threshold under land tax legislation. Land that is the subject of a special trust does not. Schedule 2 [2] provides for certain additional criteria that must be met before a unit trust is considered to be a fixed trust. The criteria require that:
  - (a) there must be only one class of units issued, and
  - (b) the proportion of trust capital to which a unit holder is entitled on a winding up or surrender of units must be fixed and must be the same as the proportion of income of the trust to which the unit holder is entitled.
22. Schedule 2 [1] and [10] are consequential amendments.

*Land tax exemptions*

23. Schedule 2 [3], [5] and [7] clarify existing land tax exemptions for charitable and educational institutions, to make it clear that they also apply to bodies corporate, societies, institutions or other bodies carried on solely for charitable or educational purposes.
24. Schedule 2 [6] updates a land tax exemption that applies in respect of land used for a child care service. The amendment is consequential on the commencement of the *Children (Education and Care Services) National Law (NSW)*. Schedule 2 [4] is a consequential amendment.
25. Schedule 2 [8] updates an exemption that applies to land zoned as rural land that is used for primary production. The amendment reflects changes in planning terminology brought about by the standard environmental planning instrument prescribed under the *Environmental Planning and Assessment Act 1979*.

*Life estates*

26. Schedule 2 [9] changes the way in which life estates are treated for land tax purposes, to prevent land tax avoidance practices. At present, the owner of a freehold estate that is less than the fee-simple is taken to be the owner of the land, to the exclusion of any person entitled in reversion or remainder.
27. Under the amendments, both the owner of a freehold estate that is less than the fee-simple (a *limited estate*) and the person entitled in reversion or remainder will be treated as owners of the land. The owner of the limited estate is treated as primary

taxpayer and the person entitled in reversion or remainder is treated as secondary taxpayer.

28. This means that, if either the person entitled in reversion or remainder, or the owner of the limited estate, is a company the principal place of residence exemption will not be available. The amendments in Schedule 2 [11] and [17] make this clear.
29. However, if the limited estate is a life estate created by the express terms of a will, and the duration of the life estate is based on the life of the tenant, the life tenant under the life estate will continue to be regarded as the owner of the land to the exclusion of the person entitled in reversion or remainder. The principal place of residence exemption may be available in such a case.
30. Schedule 2 [18] is a consequential amendment.

#### *Concession for acquisition of new principal place of residence*

31. Schedule 2 [13] and [14] modify a concession that allows a person, in certain circumstances, to treat 2 residences as his or her principal place of residence for land tax purposes. The concession applies when the person has recently acquired a new residence that he or she intends to use as a principal place of residence but has not yet disposed of the former residence.
32. As a result of the amendments, it will no longer be necessary for a person to dispose of his or her former residence in order to claim the benefit of the concession. However, the concession can only be claimed for one taxing date.
33. Schedule 2 [12] and [15] are consequential amendments.

#### *Concession for absence from former residence*

34. Schedule 2 [16] modifies a concession that allows a person, in certain circumstances, to be absent from his or her residence and to continue to treat the residence as his or her principal place of residence for land tax purposes. At present, the concession applies only if the person uses and occupies other land that is not owned by the person as a principal place of residence.
35. As a result of the amendments, it will no longer be necessary for a person to establish that he or she uses and occupies other land as a principal place of residence. It will be sufficient that the person does not own any other land used and occupied by the person as a principal place of residence.

#### *Other amendments*

36. Schedule 2 [19] provides for savings and transitional matters.

### **Schedule 3 Amendment of Taxation Administration Act 1996 No 97**

37. Schedule 3 [4], [5], [6] and [9] clarify that a director or former director of a corporation who is required by the Chief Commissioner to rectify a failure by the corporation to pay tax must rectify that failure within a period specified by the Chief Commissioner in a notice in writing served on the director or former director. If the failure to pay the tax is not rectified by the end of that period, the director or former director is jointly and severally liable with the corporation to pay the unpaid tax.

38. Schedule 3 [1] ensures that, if the failure to pay the tax is not rectified, the liability of a director or former director for a corporate tax liability is not limited to the original assessment amount, but can include interest and penalty tax payable in respect of that assessment amount. Schedule 3 [2], [3] and [8] are consequential amendments.
39. Schedule 3 [7] requires the Chief Commissioner to issue to the director or former director a notice of assessment of the tax liability of the director or former director, in relation to corporate tax liability.
40. Schedule 3 [10] provides for savings and transitional matters.

#### ISSUES CONSIDERED BY COMMITTEE

**The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.**

## Part Two - Regulations

# 1. Privacy and Personal Information Protection Amendment (CCTV) Regulation 2013

### PURPOSE AND DESCRIPTION

1. The object of this Regulation is to exempt local councils from provisions of the *Privacy and Personal Information Protection Act 1998* relating to the collection of personal information by using a CCTV camera installed for the purpose of filming a public place, and the disclosure to the NSW Police Force of that information by way of live transmission.

### ISSUES CONSIDERED BY COMMITTEE

**The regulation trespasses unduly on personal rights and liberties: s 9(1)(b) (i) of the LRA**

#### *Right to privacy*

2. The Regulation gives local councils new privacy exemptions to allow them to collect personal information via CCTV cameras in public places and then provide that information to the NSW Police Force via a live transmission.
3. In particular, local councils will be exempt from the requirements in section 11 of the *Privacy and Personal Information Protection Act 1998* that reasonable steps be taken to ensure that personal information collected is relevant, not excessive, accurate, up-to-date, complete and does not intrude to an unreasonable extent on the personal affairs of the individual concerned. They will also be exempt from section 18, which places limits on the circumstances in which personal information can be disclosed to other persons or bodies.

**While the Regulation gives local councils some privacy exemptions when using CCTV, councils will still have to comply with the remaining Information Protection Principles in the *Privacy and Personal Information Protection Act 1998*, which provides some privacy safeguards for individuals. Nevertheless, because the proposed amendments could impact on an individual's right to privacy, the Committee refers this issue to Parliament for further consideration.**

# Appendix One – Index of Ministerial Correspondence on Bills

**The Committee does not report on any Ministerial Correspondence on Bills in this Digest.**



## Appendix Two – Index of Correspondence on Regulations on which the Committee has reported

1. In Digest 9/55, the Committee reported on the Work Health and Safety (Savings and Transitional) Regulation 2011, and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 17 April 2012 which addresses to the Committee's satisfaction the issues raised.
2. In Digest 12/55, the Committee reported on the Water Management (General) Amendment (Water Sharing Plans) Regulation (No 2) 2011 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 29 May 2012 which addresses to the Committee's satisfaction the issues raised.
3. In Digest 16/55, the Committee reported on the Home Building Amendment (Threshold for Home Warrant Insurance) Regulation 2012 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 29 May 2012 which addresses to the Committee's satisfaction the issues raised.
4. In Digest 12/55, the Committee reported on the Local Government (General) Amendment (Election Procedures) Regulation 2012 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister received 21 June 2012 which addresses to the Committee's satisfaction the issues raised.
5. In Digest 15/55, the Committee reported on the Police Amendment (Death and Disability) Regulation 2011 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister received 9 July 2012 which addresses to the Committee's satisfaction the issues raised.
6. On 8 May 2012 the Committee wrote to the Attorney General in relation to James Hardie Former Subsidiaries (Winding up and Administration) Amendment (Statutory Recovery Claims) Regulation 2012. The Committee was in receipt of a response from the Attorney General dated 10 August 2012 which addressed to the Committee's satisfaction the issues raised. Further information in relation to this can be found in Digest 23/55.