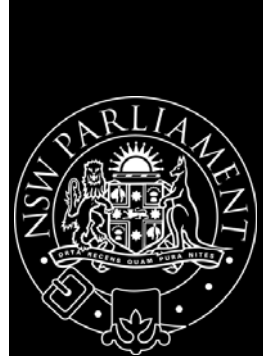


PARLIAMENT OF NEW SOUTH WALES



Legislation Review Committee

LEGISLATION REVIEW DIGEST

No 11 of 2006

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FUNCTIONS OF THE LEGISLATION REVIEW 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.
- (3) 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 *LEGISLATION REVIEW DIGEST*

Part One – Bills

Section A: Comment on Bills

This section contains the Legislation Review Committee’s reports on Bills introduced into Parliament. Following a brief description of the Bill, the Committee considers each Bill against the five criteria for scrutiny set out in s 8A(1)(b) of the *Legislation Review Act 1987* (see page iii).

Section B: 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.

Part Two – 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 is set out in s 9 of the *Legislation Review Act 1987* (see page iii).

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 Bills Reported on in 2005

This table lists the Bills reported on in the calendar year and the *Digests* in which any reports in relation to the Bill appear.

Appendix 2: Index of Ministerial Correspondence on Bills for 2005

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 3: Bills that received comments under s 8A of the Legislation Review Act in 2005

This table specifies the action the Committee has taken with respect to Bills that received comment in 2005 against the five scrutiny criteria. When considering a Bill, the Committee may refer an issue that relates to its scrutiny criteria to Parliament, it may write to the Minister or Member of Parliament responsible for the Bill, or note an issue. Bills that did not raise any issues against the scrutiny criteria are not listed in this table.

Appendix 4: Index of correspondence on Regulations reported on in 2005

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.

SUMMARY OF CONCLUSIONS

SECTION A: Comment on Bills

1. Business Names Amendment Bill 2006

3. The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.

2. Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill 2006

- The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.

3. Crimes Amendment (Apprehended Violence) Bill 2006

Strict liability offences: proposed s 562ZJ and s 562ZK

31. The Committee considers that strict liability offences should be imposed only where clearly justified and that penalties should reflect the lack of any fault element.
32. The Committee notes that proposed s 562ZJ and s 562ZK create strict liability offences with heavy penalties – including imprisonment for up to 2 years – in circumstances in which individuals may conceivably inadvertently offend against those proposed sections.
33. The Committee also notes the importance of protecting children and other vulnerable persons involved in AVO proceedings.
34. The Committee refers to Parliament the question of whether providing for penalties of up to 200 penalty units and 2 years' imprisonment for the strict liability offences in proposed s 562ZJ and s 562ZK unduly trespasses on personal rights and liberties.

4. Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill 2006

Amendments to the Code: CI 60X and 60Y

13. The Committee notes that the Bill allows regulations to declare a code that will have legislative force and that need not be tabled in Parliament and changes to which cannot be disallowed by either House.
14. However, given the objects of the Bill and the effects of declaring such a code, the Committee does not consider that the Bill insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

5. Road Transport (General) Amendment (Intelligent Access Program) Bill 2006

- | |
|--|
| 12. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
|--|

SECTION B: Ministerial Correspondence — Bills Previously Considered

6. Water Management Amendment Bill 2005

- | |
|---|
| 6. The Committee thanks the Minister for his reply. |
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Part One – Bills

SECTION A: COMMENT ON BILLS

1. BUSINESS NAMES AMENDMENT BILL 2006

Date Introduced:	6 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Diane Beamer MP
Portfolio:	Fair Trading

Purpose and Description

1. The Bill amends the *Business Names Act 2002* to make further provision with respect to the registration and use of business names.

The Bill

2. The Bill amends the principal Act:
 - (a) to provide for the restoration of the registration of a business name within 3 months of the registration expiring;
 - (b) to prohibit the registration of a business name containing the word “sheriff” without consent;
 - (c) to allow the transfer of the registration of a business name to a person aged 16 years or over; and
 - (d) to include a specific regulation-making power with respect to the refund and waiver of fees.

Issues Considered by the Committee

3. **The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.**

The Committee makes no further comment on this Bill.

2. CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (PARENT RESPONSIBILITY CONTRACTS) BILL 2006

Date Introduced:	6 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Reba Meagher MP
Portfolio:	Community Services

Purpose and Description

1. The objects of this Bill are:
 - (a) to amend the *Children and Young Persons (Care and Protection) Act 1998*:
 - (i) to enable the Director-General of the Department of Community Services (the Director-General) and the primary care-givers for a child or young person to enter into an agreement (a parent responsibility contract) that contains provisions aimed at improving the parenting skills of the primary care-givers and encouraging them to accept greater responsibility for the child or young person, and
 - (ii) to clarify the circumstances in which the Children's Court may make orders for the purpose of giving effect to a care plan without the need for a care application under Part 2 of Chapter 5 of that Act, and
 - (iii) to enable the Children's Court to accept undertakings from certain persons in respect of a child or young person in need of care and protection even if they are not parents of the child or young person, and
 - (iv) to expand the power of the Children's Court to make orders with respect to attendance by the parents of a child or young person at a therapeutic or treatment program, and
 - (b) to make a consequential amendment to the *Children's Court Rule 2000*.

Background

2. In her second reading speech, the Minister stated:

The [Bill] is part of the New South Wales Government's Respect and Responsibility Plan.... The Bill...creates a legislative base for parent responsibility contracts.... The Bill will enable the Department of Community Services to develop, in collaboration with the primary caregiver for the child or young person, a parent responsibility contract. This will occur in those instances where the Department is of the view that the lack of parenting skills or poor behaviour of one or more of the primary caregivers of the child or young person can be modified within a period of six months so as to adequately reduce the risk of harm to the child or young person. A parent responsibility contract is an agreement between primary caregivers and the Department of Community Services aimed at targeting specific problems, where there is a specific and tangible response. Once agreed to and signed, the contract will be registered in the Children's Court.

... The Bill proposes that a parent responsibility contract may require a primary caregiver to attend and participate in programs to address such issues as mental

Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill
2006

health, parenting skills, addiction, anger management and violence prevention and behavioural issues.¹

3. The Committee notes that parental responsibility laws exist in other Australian jurisdictions (eg, WA) and in the United Kingdom, although it understands that there are some significant differences between these laws and the proposed Bill. The Committee also notes the NSW Parliamentary Library Research Service's Briefing Paper No 7/06, *Parental Responsibility Laws* (May 2006).²

Issues Considered by the Committee

The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.

The Committee makes no further comment on this Bill.

¹ The Hon Reba Meagher MP, Minister for Community Services, Second Reading Speech, Legislative Assembly Hansard, 6 September 2006.

² Available on the NSW Parliamentary Library Website.

3. CRIMES AMENDMENT (APPREHENDED VIOLENCE) BILL 2006

Date Introduced:	6 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Bob Debus MP
Portfolio:	Attorney General

Purpose and Description

1. The Bill repeals and re-enacts with changes Part 15A of the *Crimes Act 1900* [the Crimes Act], following a review of that Part by the New South Wales Law Reform Commission.³
2. Part 15A deals primarily with apprehended violence orders [AVOs] issued by Local Courts, the Children's Court, or authorised officers to protect persons from violence arising from domestic relationships, or violence arising outside domestic relationships [personal violence].

Background

3. The following background was provided in the second reading speech:

The Law Reform Commission report contains 56 recommendations for fine tuning the operation of AVOs and further enhancing the protection they provide. The report was the culmination of over 12 months research and extensive consultation. Many of these recommendations have been adopted by the Government in the bill.

In essence, the bill is designed to offer greater protection to victims of domestic and personal violence; recognise the gravity of domestic violence and how it may differ from other violent crimes; minimise as much as possible the stress and trauma that is associated with apprehended violence orders; streamline the process of making an application and having that application heard; minimise the impact of AVO proceedings on the most vulnerable members of society, our children; and ensure that New South Wales has the most progressive and up-to-date laws possible with respect to this very important and highly poignant area of concern.⁴

The Bill

4. The Bill consists of an extensive range of provisions under a new Part 15A of the Crimes Act. The Bill also consequentially makes other amendments to the Crimes Act, and to other Acts and Regulations.⁵

³ See Law Reform Commission Report 103 of 2003, www.lawlink.nsw.gov.au/lrc.nsf/pages/r103toc.

⁴ Mr N J Newell MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 6 September 2006.

⁵ In particular, the Bill re-enacts the offence currently contained in s 562AB of the *Crimes Act 1900* (stalking or intimidation with intent to cause fear of physical or mental harm) as s 545AB.

Apprehended Domestic Violence Orders

5. Proposed new Division 2 makes important amendments relating to Apprehended Domestic Violence Orders [ADVO]. Its objects are to:
 - ensure the safety and protection of all persons, including children, who experience or witness domestic violence;
 - reduce and prevent violence between persons who are in a domestic relationship with each other;
 - enact provisions that are consistent with certain principles underlying the *Declaration on the Elimination of Violence against Women*; and
 - enact provisions that are consistent with the United Nations *Convention on the Rights of the Child* [proposed s 562E(1)].
6. Accordingly, a court or person exercising any power thereunder must be guided in the exercise of that power by these express objects [proposed s 562E(4)]. In deciding whether or not to make an ADVO, the safety and protection of the protected person, and any child directly or indirectly affected by the alleged conduct of the defendant are paramount [proposed s 562H(1)].⁶
7. An application may be made for an ADVO for the protection of:
 - a person against another person with whom he or she has, or has had, a domestic relationship; or
 - two or more persons against another person with whom at least one of those persons has or has had a domestic relationship [proposed s 562F(1)].⁷
8. A court may make an ADVO if satisfied on the balance of probabilities that a person who has, or has had, a domestic relationship with another person has reasonable grounds to fear, and in fact fears:
 - the commission by the other person of a personal violence offence against the person; or
 - the engagement of the other person in conduct in which the other person:
 - intimidates the person or a person with whom the person has a domestic relationship; or
 - stalks the person,
 - being conduct that, in the opinion of the court, is sufficient to warrant the making of the order [proposed s 562G(1)].⁸

⁶ Thus, a person who applies for, or for a variation of, an AVO must inform the court of:

- any relevant parenting order of which the person is aware; or
- any pending application for a relevant parenting order of which the person is aware: proposed s 562ZZO(1).

⁷ An application is to be treated as an application for an apprehended *personal* violence order if none of the persons for whose protection the order would be made has or has had a domestic relationship with the person against whom it is sought.

⁸ However, it is not necessary for the court to be satisfied that the person for whose protection the order would be made in fact fears that such an offence will be committed, or that such conduct will be engaged in, if:
(a) the person is a child;

Crimes Amendment (Apprehended Violence) Bill 2006

9. Conduct may amount to intimidation of a person even though it does not involve actual or threatened violence to the person; or it consists only of actual or threatened damage to property [proposed s 562G(3)].
10. An order must impose only those prohibitions and restrictions on the defendant that, in the court's opinion, are necessary for the safety and protection of the protected person, and any child directly or indirectly affected, and the protected person's property [proposed s 562H(3)].⁹
11. It is an offence to knowingly contravene a prohibition or restriction specified in an order, carrying a maximum penalty of 50 penalty units (currently \$5,500), or imprisonment for 2 years, or both [proposed s 562ZG(1)].¹⁰

Apprehended Personal Violence Orders

12. Proposed new Division 3 deals in somewhat similar terms with apprehended personal violence orders [APVOs] to ensure the safety and protection of all persons who experience personal violence *outside* a domestic relationship [proposed s 562I(1)]. A court may make an APVO if satisfied on the balance of probabilities of the same matters required for an ADVO [proposed s 562K(1)].
13. An authorised officer may refuse to issue process if satisfied that the application:
 - is frivolous, vexatious, without substance or has no reasonable prospect of success, or
 - could be dealt with more appropriately by mediation or other alternative dispute resolution [proposed s 562M(3)].¹¹
14. However, unless satisfied that there are compelling reasons for doing so, an authorised officer must not refuse if the application discloses allegations of:
 - a personal violence offence;

(b) the person is, in the opinion of the court, suffering from an appreciably below average general intelligence function; or

(c) in the opinion of the court:

- (i) the person has been subjected at any time to conduct by the defendant amounting to a personal violence offence, and
- (ii) there is a reasonable likelihood that the defendant may commit a personal violence offence against the person; and
- (iii) the making of the order is necessary in the circumstances to protect the person from further violence.

⁹ Pursuant to s 562ZE, *all* orders are taken to prohibit stalking and intimidation. A court may also make *ancillary property recovery orders*, enabling the retrieval of property of a person protected by an apprehended violence, order or of the defendant under such an order: proposed s 562ZF.

¹⁰ Unless a court otherwise orders, a person who is convicted of such an offence *must* be sentenced to a term of imprisonment if the act constituting the offence was an act of violence against a person [proposed s 562ZG(4)].

¹¹ An *authorised officer* is a Magistrate or a Children's Magistrate; a Clerk of a Local Court; or an employee of the Attorney General's Department authorised by the Attorney General as an authorised officer for the purposes of the *Law Enforcement (Powers and Responsibilities) Act 2002*, either personally, or as the holder of a specified office.

- an offence under s 545AB [Intimidation or annoyance by violence or otherwise]; or
- harassment relating to the protected person's race, religion, homosexuality, transgender status, HIV/AIDS or other disability [proposed s 562M(4)].

Interim AVOs

15. A police officer may apply by telephone for an interim order [TIO] where:
- an incident occurs involving the person against whom the order is sought to be made and the person who would be protected by the order; and
 - the officer has good reason to believe an order needs to be made immediately to ensure the safety and protection of the person who would be protected by the order or to prevent substantial damage to any property of that person [proposed s 562P(1)].¹²
16. Such an application *must* be made if:
- a police officer investigating the incident concerned suspects or believes that:
 - a domestic violence offence or an offence against s 545AB has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made;
 - an offence under s 227 (Child and young person abuse) of the *Children and Young Persons (Care and Protection) Act 1998* (but only in relation to a child) has recently been or is being committed, or is imminent, or is likely to be committed, against the person for whose protection an order would be made; or
 - proceedings have been commenced against a person for such offences against the person for whose protection an order would be made;¹³ and
 - the officer has good reason to believe an order needs to be made immediately to ensure the safety and protection of the person who would be protected by the order, or to prevent substantial damage to any property of that person.¹⁴
17. The TIO must contain a direction for the appearance of the defendant at a hearing of the application on a date specified therein, but not more than 28 days after it is made [proposed s 562T(2)]. A police officer may detain or arrest a person against whom a

¹² Proposed s 562S(1) sets out the prohibitions and restrictions which may be placed upon a defendant.

¹³ These conditions apply in respect of AVOs generally: see proposed s 56ZZR(1).

¹⁴ An application need not be made in such circumstances if the person for whose protection an order would be made is at least 16 years of age at the time of the incident, and a police officer investigating the incident believes that:

- the person intends to make an application for an order; or
- there is good reason not to make the application.

However, if the police officer investigating the incident believes that there is good reason not to make the application, he or she must make a written record of the reason.

TIO is sought, but only for the purpose of serving a copy of the order on the person [proposed s 562Y].¹⁵

External Protection Orders

18. The Bill provides for the registration in a NSW court of an *external protection order* [EPO], namely, an order made by a court of another State or Territory or New Zealand that has been made to prevent a person from acting in a manner specified in s 562G or s 562K [proposed new s 562ZZU]. A registered EPO:

- has the same effect as an order made under Part 15A; and
- may be enforced against a person as if it were an order which had been made under this Part and as if a copy of the order had been served on that person in accordance with s 562ZZA [proposed s 562ZZV(1)].¹⁶

Issues Considered by the Committee

Trespasses on personal rights and liberties [s 8A(1)(b)(i) *LRA*]

Strict liability offences: proposed s 562ZJ and s 562ZK

19. The name of a child:

- for whose protection or against whom an order is sought in any relevant proceedings;
- who appears, or is reasonably likely to appear, as a witness before a court in any relevant proceedings; or
- who is, or is reasonably likely to be, mentioned or otherwise involved in any relevant proceedings,

must not be published or broadcast before the proceedings are commenced or after the proceedings have been commenced and before they are disposed of [proposed s 562ZJ(1)].

20. The court may make orders to the same effect in respect of any person in the same circumstances [proposed s 562ZK(1)].

21. A person who publishes or broadcasts the name of a child or other person is guilty of an offence. The maximum penalty is 200 penalty units (currently \$22,000) or imprisonment for a period not exceeding 2 years, or both, in the case of an individual;

¹⁵ It was noted in the second reading speech that the proposed section has been amended:

...so that it is no longer necessary for a police officer making an application for a telephone interim apprehended violence order to request additional restrictions to be imposed on the defendant. Provided that the test is met for the order to be made, an authorised officer may now, of his or her own volition, impose restrictions or prohibitions on the behaviour of the defendant.

Mr N J Newell MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 6 September 2006.

¹⁶ The variation or revocation of an external protection order by a court of the State, Territory or country in which it was made after the order has been registered under s 562ZZU has no effect in New South Wales: proposed s 562ZZV(2).

or 2,000 penalty units (currently \$220,000) in the case of a corporation [proposed s 562ZJ(2) & s 562ZK(2)].¹⁷

22. For the purposes of s 562ZJ and s 562ZK, a reference to “the name” of a child or person includes a reference to any information, picture or other material which:
- identifies the child or person; or
 - is likely to lead to the identification of the child or person [proposed s 562ZJ(4) & s 562ZK(4) respectively].
23. These offences are expressly offences of strict liability [proposed s 562ZJ(5) & s 562ZK(5)].
24. Under Australian law, crimes are generally considered to have two aspects, a physical aspect (*actus reus*) and a mental aspect (*mens rea*). At common law there is a presumption that a prosecutor must show that an accused person had the requisite criminal intent, or *mens rea*, to commit the offence. This presumption constitutes a fundamental criminal justice principle:
- The requirement of a mental element is considered a hallmark of our criminal justice system. It is an overarching principle of criminal law that doing a forbidden act should not of itself render a person guilty of a crime; it must also be shown that the person had a guilty mind.¹⁸
25. The Committee’s concern with strict and absolute liability offences stems from the fact that they displace the common law rule that the prosecutor must prove beyond reasonable doubt that the offender intended to commit the offence. Sometimes this is expressed as being contrary to the fundamental right to be presumed innocent until proved guilty, as the person concerned is presumed to have committed the offence if they committed the offending act regardless of their intention to do so.
26. Article 14(2) of the International Covenant on Civil and Political Rights sets out this fundamental human right:
- Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
27. The Committee has consistently expressed the view that as strict liability is a very serious matter, such offences should only be:
- enacted where there are sound and compelling public interest justifications for doing so;
 - applied where the penalty does not include imprisonment; and

¹⁷ However, the Bill does *not* prohibit:

- the publication or broadcasting of an official report of the proceedings of a court that includes the name of any child the publication or broadcasting of which would otherwise be prohibited; or
- the publication or broadcasting of the name of a child with the consent of the court [proposed s 562ZJ(3) & s 562ZK(3)].

¹⁸ Australian Law Reform Commission Report No 95, *Principled Regulation: Civil and Administrative Penalties in Australian Federal Regulation*, 2002, paragraph 4.8.

Crimes Amendment (Apprehended Violence) Bill 2006

- of a regulatory nature (eg, public safety or protection of the environment), rather than serious criminal offences.¹⁹
28. The Committee acknowledges that there are circumstances in which it may be appropriate to create strict liability offences, and that the strict liability offences under the Bill are undoubtedly aimed at ensuring the safety of children or other people involved in AVO proceedings.
29. However, the Committee notes that the penalties under the Bill are extremely high for an offence without a fault element.
30. Moreover, the definition of “naming” to include the publication of any information, picture or other material which is likely to lead to the identification of the child or person is very broad, and could conceivably occur without any intention to contravene proposed s 562ZJ or s 562ZK.

- 31. The Committee considers that strict liability offences should be imposed only where clearly justified and that penalties should reflect the lack of any fault element.**
- 32. The Committee notes that proposed s 562ZJ and s 562ZK create strict liability offences with heavy penalties – including imprisonment for up to 2 years – in circumstances in which individuals may conceivably inadvertently offend against those proposed sections.**
- 33. The Committee also notes the importance of protecting children and other vulnerable persons involved in AVO proceedings.**
- 34. The Committee refers to Parliament the question of whether providing for penalties of up to 200 penalty units and 2 years’ imprisonment for the strict liability offences in proposed s 562ZJ and s 562ZK unduly trespasses on personal rights and liberties.**

The Committee makes no further comment on this Bill.

¹⁹ See, eg, the Committee’s report on the *Criminal Procedure Further Amendment (Evidence) Bill 2005*, Digest No 4 of 2005.

4. FAIR TRADING AMENDMENT (MOTOR VEHICLE INSURANCE AND REPAIR INDUSTRIES) BILL 2006

Date Introduced:	6 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Diane Beamer MP
Portfolio:	Fair Trading

Purpose and Description

1. The object of this Bill is to amend the *Fair Trading Act 1987* to require compliance with an industry code of conduct for motor vehicle insurers and repairers.
2. Representatives of the insurance and smash repair industries have been developing a voluntary code of conduct, particularly in connection with network repairer schemes under which a number of repairers are promoted under a scheme operated by an insurer to carry out repairs on damaged motor vehicles insured by that insurer. The Bill will enable the declaration by the regulations of such a code as the applicable industry code, and provide for its enforcement.
3. This Bill is intended to provide for fair, timely and transparent conduct between insurers and repairers so that consumers with damaged motor vehicles are not unduly inconvenienced or unfairly treated as a result of the business practices in, or disputes between, the insurance and repair industries.

Background

4. The following background is provided in the second reading speech:

There have been general concerns about the outcomes of the changing insurer-repairer relationship, including the transparency of network repairer arrangements, the transfer of network repair status when the repair business is sold, repair methods, responsibility for repair warranties, payment terms, and the fairness of on-line tendering systems. The concerns raised in the disputes have been national in scope, given the national operation of the insurers involved, and have also related to market power issues, particularly as the insurance market is dominated by four major insurers—the Insurance Australia Group, which includes NRMA Insurance, Promina, which includes AAMI, Suncorp-GIO, and Allianz. Accordingly, the concerns were examined by the Australian Competition and Consumer Commission in 2003 and, more recently, by the Productivity Commission in 2005.

The dispute between insurers and smash repairers in recent years has now highlighted the need to put rules into place that ensure a fair deal for consumers and a sustainable industry for both repairers and insurers. The best way this can be done is by making the voluntary national Motor Vehicle Insurance and Repair Industry Code, released on 1 June 2006, enforceable under New South Wales legislation. The code is a result of the Productivity Commission's report on smash repairers and insurers and covers the key issues identified in that report.²⁰

²⁰ The Hon Diane Beamer MP, Minister for Fair Trading, Legislative Assembly *Hansard*, 6 September 2006.

The Bill

5. The Bill amends the Fair Trading Act 1987 so that regulations may declare a mandatory code to regulate the relationship between insurers and motor vehicle repairers.
6. It provides that the enforcement and remedies provisions of the Fair Trading Act will be triggered if a dispute has not been resolved by the dispute resolution procedures specified under the code or if the insurer or repairer refuses to take part in those procedures.

Issues Considered by the Committee

Parliamentary scrutiny of legislative power [s 8A(1)(b)(v) *LRA*]

Amendments to the Code: CI 60X and 60Y

7. The Bill enables regulations to declare a specified code of conduct to be an applicable industry code of conduct for the purposes of proposed Part 5E in relation to the conduct of the business of insurers and repairers [proposed s 60X].
8. The Bill provides that an insurer or repairer must, in trade or commerce, comply with any such declared industry code of conduct [proposed 60Y(1)].
9. The Bill also provides that if a dispute arises between an insurer and repairer regarding a contravention of the code:
 - a party to the dispute cannot use the enforcement and remedies provisions of Part 6 of the Act unless the dispute could not be resolved under the dispute resolution procedures under the code and the party did not refuse to take part in those procedures; and
 - the enforcement and remedies provisions of the Act regarding injunctions, orders to disclose information or publish an advertisement, actions for damages and other orders otherwise apply.
10. Failure to comply with the code does not comprise an offence against the Act [schedule 1[2]].
11. The Minister has stated her intention to declare the Motor Vehicle Insurance and Repair Industry Code to be the applicable code. That code specifies standards of fair-trading, process and transparency in the relationship between insurers and repairers and provides dispute resolution processes.
12. The Motor Vehicle Insurance and Repair Industry Code is administered by the Code Administration Committee, made up of three appointees of the Insurance Council of Australia and three appointees of the Motor Traders Association of Australia. The Code Administration Committee can make changes to the Code (on a consensual basis).²¹

²¹ Motor Vehicle Insurance and Repair Industry Code of Conduct, Section 12.1 Code Administration Committee, p.21.

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|--|
| <p>13. The Committee notes that the Bill allows regulations to declare a code that will have legislative force and that need not be tabled in Parliament and changes to which cannot be disallowed by either House.</p> <p>14. However, given the objects of the Bill and the effects of declaring such a code, the Committee does not consider that the Bill insufficiently subjects the exercise of legislative power to parliamentary scrutiny.</p> |
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The Committee makes no further comment on this Bill.

5. ROAD TRANSPORT (GENERAL) AMENDMENT (INTELLIGENT ACCESS PROGRAM) BILL 2006

Date Introduced:	6 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Eric Roozendaal MLC
Portfolio:	Roads

Purpose and Description

1. The Bill amends the *Road Transport (General) Act 2005* [the Act] and the *Road Transport (Mass, Loading and Access) Regulation 2005* made under that Act [the Regulation] to provide for:
 - compliance by vehicle operators and drivers with conditions relating to access to and use of roads to be monitored by intelligent transport systems; and
 - the collection, use and disclosure of information obtained by the use of such intelligent transport systems.
2. The Bill's provisions generally reflect the proposals contained in the National Transport Commission's *National Model Bill* relating to intelligent access programs.

Background

3. The following background was provided in the second reading speech:

The Bill incorporates the provisions of the National Transport Commission's national bill for the *Road Transport (Intelligent Access Program) Act 2005*, approved by the Australian Transport Council in December 2005. The Intelligent Access Program is voluntary and provides the technical, legal, administrative and commercial framework to allow road authorities to use technology, such as global positioning systems, to monitor heavy vehicles for compliance and enforcement purposes, while offering productivity benefits to the trucking industry.

...The national bill for the *Road Transport (Intelligent Access Program) Act 2005* was developed by the National Transport Commission with the assistance of the national legislative advisory panel. The panel included representatives from the Commonwealth Department of Transport and Regional Services, NSW Police, Victoria Police, the Australian Trucking Association, the New South Wales Road Transport Association and the Victorian Transport Association.²²

The Bill

Amendment of the *Road Transport (General) Act 2005*

4. The Bill enables Regulations to be made in relation to intelligent transport systems, required or permitted by or under a road transport law or any exemption, authority or condition thereunder [proposed new s 11A].

²² Mr N J Newell MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 6 September 2006.

5. An ***intelligent transport system*** is a system involving the use of electronic or other technology that has the capacity and capability to monitor, collect, store, display, analyse, transmit or report information relating to vehicles, drivers, operators or other persons involved in road transport [proposed cl 72B(1) of the Regulation].
6. The Regulation-making power covers a wide range of areas including:
 - conditions;
 - the regulation or prohibition of the collection, storage, use and disclosure of information obtained by the use of such a system or for the purposes of a system;
 - the keeping of records, tampering with such systems and the certification and functions of providers and auditors of such systems; and
 - the use of certificates as evidence in proceedings before a court or tribunal [proposed new s 11A(2)].
7. Regulations may also be made with respect to evidentiary matters relating to information obtained from such systems [proposed new s 11A(2)(n)].

Amendment of the *Road Transport (Mass, Loading and Access) Regulation 2005*

8. The Regulation regulates mass and loading of heavy vehicles and combinations and access conditions to roads for heavy vehicles and combinations. It sets out mass, loading, dimension and access requirements, and exemptions from certain requirements on conditions. Exemptions are given in the form of a notice published in the Gazette or a permit issued by the Roads and Traffic Authority [RTA].
9. The Bill amends the Regulation to provide that each notice and permit relating to heavy vehicles may be made subject to a condition that a vehicle to which it applies - and any driver of the vehicle - participate in a program involving the use of an intelligent transport system to monitor compliance with the notice or permit [proposed cl 72A].
10. The Bill also amends the Regulation to provide for matters that may be specified in an intelligent access condition, including the kinds of intelligent transport systems, service providers and matters to be monitored [proposed cl 72C].²³
11. The Bill also inserts into the Regulation a regime of information protection in respect of the collection, storage, use, disclosure and audit of intelligent access information in addition to the provisions of the *Privacy and Personal Information Protection Act 1998* [proposed Division 4].²⁴

²³ Systems and service providers may not be specified unless certified by Transport Certification Australia Ltd [TCA], and each intelligent transport system must use the spatial data set issued by TCA, namely the *intelligent access map*: proposed cl 72D.

²⁴ See Mr N J Newell MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 6 September 2006.

Issues Considered by the Committee

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| <p>12. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i>.</p> |
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The Committee makes no further comment on this Bill.

SECTION B: MINISTERIAL CORRESPONDENCE — BILLS PREVIOUSLY CONSIDERED

6. WATER MANAGEMENT AMENDMENT BILL 2005

Ministerial Correspondence

Date Introduced:	17 November 2005
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Ian Macdonald MLC
Portfolio:	Natural Resources

Background

1. The Committee reported on the *Water Management Amendment Bill 2005* in the Legislation Review *Digest* 15 of 2005.
2. The Committee wrote to the Minister for Natural Resources (Minister) on 25 November 2005 (attached) noting that it is not apparent from the Bill that a licensee is necessarily responsible for all the water taken by a supply work nominated under s 71W of the Bill.
3. The Committee sought the Minister's advice as to whether it is necessarily the case that a licensee who has nominated a water supply work under s 71W that is controlled by another person is responsible for all the water taken by that work and, if not, why proposed section 341(1A) makes a licensee necessarily criminally liable for water taken by that work rather than establishing a rebuttable presumption regarding such liability.

Minister's Reply

4. In a letter dated 4 September 2006 (attached), the Minister advised the Committee that

Section 341 of the Act, makes it an offence to operate a work that is not attached to a licence. This is necessary in order to cover those operators who unlawfully pump water.

It is also necessary for the licence holder to be liable in such an event, so that any work "unlawfully taken" can be recovered. If the operator of the works has no legal right to the water no action can be taken against the operator to recover the water. However, action taken against a licensee enables the recovery of water.

The administration of these two liabilities will thus enable the correct financial penalties to be applied to the operator for taking the water unlawfully and to the licence holder to ensure that the water is recovered.

5. The Minister also advised that

[T]he introduction of s 341(1A) was necessary to ensure that the process of water tagging operates in a legal manner and that enforcement action can be taken when water is taken in excess of that available in the relevant water allocation account.

Committee's Response

6. The Committee thanks the Minister for his reply.
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The Committee makes no further comment on the Bill.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

25 November 2005

Our Ref: LRC 1639

The Hon Ian Macdonald MLC
Minister for Natural Resources
Level 30, Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

Water Management Amendment Bill 2005

At its meeting of 25 November 2005, the Legislation Review Committee considered the above Bill. It resolved to seek your advice on proposed section 341(1) of the Bill, which provides that, if water is illegally taken by means of a water supply work, a person who holds an access licence that nominates that work under s 71W is also taken to have committed the offence.

The Committee considers that it may be reasonable to presume, in the absence of evidence to the contrary, that a licensee who has nominated a water supply work is responsible for water illegally taken by that work. However, it is not apparent from the Bill that a licensee is necessarily responsible for all the water taken by a water supply work nominated under section 71W that he or she does not control.

The Committee therefore seeks your advice as to whether it is necessarily the case that a licensee who has nominated a water supply work under s 71W that is controlled by another person is responsible for all the water taken by that work and, if not, why proposed section 341(1A) makes a licensee necessarily criminally liable for water taken by that work rather than establishing a rebuttable presumption regarding such liability.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Allan Shearan'.

Allan Shearan MP
Chairman

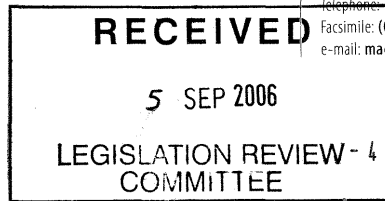
MINISTER FOR NATURAL RESOURCES
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MPI05/5078
D05/6457

Mr Allan Shearan MP
Chairman
Legislation Review Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000



Dear Mr Shearan

I refer to your letter concerning the *Water Management Amendment Bill 2005* (your ref LRC1639). I apologise for the delay in responding.

Section 341 of the *Water Management Act 2000* requires a water licence to be attached to a lawful 'work' before water can be taken from a water source. To be lawful, a work, when operated, must be associated with a licence which has a water account with a credit balance.

Under section 71W of the Act a licensee can arrange for his/her licence to be attached ('tagged') to a lawful work, irrespective of ownership of that work. However, in doing so, a licence owner cannot divest himself/herself of the responsibilities that accompany the licence, and must ensure that the operator of the works complies with the conditions of the licence. Specifically, the licence owner must ensure that the works are not operated after the account reaches zero.

You have asked why both the operator of the works and the licensee are liable if pumping continues beyond a zero account balance.

Section 341 of the Act, makes it an offence to operate a work that is not attached to a licence. This is necessary in order to cover those operators who unlawfully pump water.

It is also necessary for the licence holder to be liable in such an event, so that any work "unlawfully taken" can be recovered. If the operator of the works has no legal right to the water no action can be taken against the operator to recover the water. However, action taken against a licensee enables the recovery of water.

The administration of these two liabilities will thus enable the correct financial penalties to be applied to the operator for taking the water unlawfully and to the licence holder to ensure that the water is recovered.

Accordingly, the introduction of section 341(1A) was necessary to ensure that the process of water tagging operates in a legal manner and that enforcement action can be taken when water is taken in excess of that available in the relevant water allocation account.

Yours sincerely



IAN MACDONALD MLC

Part Two – Regulations

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

Regulation	Gazette reference		Information sought	Response Received
	Date	Page		
Conveyancing (Sale of Land) Amendment (Smoke Alarms) Regulation 2006	28/04/06	2387	25/08/06	
Gaming Machine Amendment (Payment of Prize Money) Regulation 2006	19/05/06	3088	25/08/06	
Photo Card Amendment (Fee and Penalty Notice Offences) Regulation 2006	23/06/06	4673	25/08/06	
Photo Card Regulation 2005	09/12/05	10042	28/04/06 25/08/06	21/08/05

Appendix 1: Index of Bills Reported on in 2006

	Digest Number
Air Transport Amendment Bill 2006	2
Apiaries Amendment Bill 2006	10
Appropriation Bill 2006	9
Appropriation (Budget Variations) Bill 2006	6
Appropriation (Parliament) Bill 2006	9
Appropriation (Special Offices) Bill 2006	9
Business Names Amendment Bill 2006	11
Careel Bay Protection Bill 2006*	2
Channel 7 Former Epping Site Protection Bill 2006*	10
Child Protection (International Measures) Bill 2006	2
Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill 2006	11
Children and Young Persons (Care and Protection) Bill 2006	7
Children (Detention Centres) Amendment Bill 2006	8
Civil Liability Amendment Bill 2006	7
Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill 2006	8
Constitution Amendment (Governor) Bill 2006	7
Conveyancers Licensing Amendment Bill 2006	7
Correctional Services Legislation Amendment Bill 2006	8
Courts Legislation Amendment Bill 2006	4
Courts Legislation Further Amendment Bill 2006	8
Crimes and Courts Legislation Amendment Bill 2005	1
Crimes Amendment (Apprehended Violence) Bill 2006	11
Crimes Amendment (Murder of Police Officers) Bill 2006*	7
Crimes Amendment (Organised Car and Boat theft) Bill 2006	4
Crimes Legislation Amendment (Gangs) Bill 2006	10
Crimes (Serious Sex Offenders) Bill 2006	5
Crimes (Sentencing Procedure) Amendment Bill 2006	5
Crimes (Sentencing Procedure) Amendment (Gang Leaders) Bill 2006*	3
Deer Bill 2006	10
Duties Amendment (Abolition of State Taxes) Bill 2006	9
Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006	8

	Digest Number
Education Amendment (Financial Assistance to Non-Government Schools) Bill 2006	9
Education Legislation Amendment (Staff) Bill 2006	6
Electricity Supply Amendment (Protection of Electricity Works) Bill 2006	6
Environmental Planning and Assessment Amendment Bill 2006	2
Environmental Planning and Assessment Amendment (Reserved Land Acquisition) Bill 2006	4
Fair Trading Amendment Bill 2006	8
Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill 2006	11
Fines Amendment (Payment of Victims Compensation Levies) Bill 2006	2
Firearms Amendment (Good Behaviour Bonds) Bill 2006*	2
Fisheries Management Amendment Bill 2006	2
Freedom of Information Amendment (Open Government-Disclosure of Contracts) Bill 2005	1
Independent Commission Against Corruption Amendment (Operations Review Committee) Bill 2006	5
Industrial Relations Amendment Bill 2006	3
Interpretation Amendment Bill 2006	8
James Hardie (Civil Liability) Bill 2005	1
James Hardie (Civil Penalty Compensation Release) Bill 2005	1
James Hardie Former Subsidiaries (Winding up and Administration) Bill 2005	1
Judicial Officers Amendment Bill 2006	6
Jury Amendment (Verdicts) Bill 2006	5
Land Tax Management Amendment (Tax Threshold) Bill 2006	2
Law Enforcement (Controlled Operations) Amendment Bill 2006	3
Law Enforcement Legislation Amendment (Public Safety) Bill 2005	1
Legal Profession Amendment Bill 2006	5
Liquor Amendment (2006 FIFA World Cup Hotel Trading) Bill 2006	8
Local Government Amendment (Miscellaneous) Bill 2006	6
Local Government Amendment (Waste Removal Orders) Bill 2006	8
Motor Accidents Compensation Amendment Bill 2006	3
Motor Accidents (Lifetime Care and Support) Bill 2006	3
Motor Vehicle Repairs (Anti-steering) Bill 2006*	4
National Parks and Wildlife (Adjustment of Areas) Bill 2006	2
Parliamentary Electorates and Elections Amendment Bill 2006	10
Pharmacy Practice Bill 2006	7
Pipelines Amendment Bill 2006	7

	Digest Number
Police Amendment (Death and Disability) Bill 2005	1
Police Amendment (Police Promotions) Bill 2006	10
Police Integrity Commission Amendment Bill 2006	10
Protection of the Environment Operations Amendment (Waste Reduction) Bill 2006	3
Public Sector Employment Legislation Amendment Bill 2006	3
Road Transport (General) Amendment (Intelligent Access Program) Bill 2006	11
Royal Rehabilitation Centre Sydney Site Protection Bill 2006*	3
Security Industry Amendment (Patron Protection) Bill 2006*	7
Smoke-free Environment Amendment (Removal of Exemptions) Bill 2006*	4
Snowy Hydro Corporatisation Amendment (Parliamentary Scrutiny of Sale) Bill 2006	9
Snowy Hydro Corporatisation Amendment (Protect Snowy Hydro) Bill 2006	9
State Property Authority Bill 2006	7
State Revenue and Other Legislation Amendment (Budget Measures) Bill 2006	9
State Revenue Legislation Amendment Bill 2006	8
Statute Law (Miscellaneous Provisions) Bill 2006	8
Summary Offences Amendment (Display of Spray Cans) Bill 2006	7
Superannuation Legislation Amendment Bill 2006	8
Sydney Cricket and Sports Ground Amendment Bill 2006	8
Threatened Species Conservation Amendment (Biodiversity Banking) Bill 2006	9
Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006	6
Transport Administration Amendment (Travel Concession) Bill 2006	9
University of Technology (Kuring-gai Campus) Bill 2006*	8
Valuation of land Amendment Bill 2006	7
Water Management Amendment (Water Property Rights Compensation) Bill 2006	5
Workers Compensation Legislation Amendment Bill 2006	4
Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005	1
Young Offenders Amendment (Reform of Cautioning and Warning) Bill 2006*	8

Appendix 2: Index of Ministerial Correspondence on Bills

Bill	Minister/Member	Letter sent	Reply received	Digest 2005	Digest 2006
Children (Detention Centres) Bill 2006	Minister for Juvenile Justice	02/06/06	27/06/06		8, 9
Commission for Children and Young People Amendment Bill 2005	Minister for Community Services	25/11/05	25/08/06	15	10
Companion Animals Amendment Bill 2005	Minister for Local Government	25/11/05	15/12/05		1
Confiscation of Proceeds of Crime Amendment Bill 2005	Attorney General	10/10/05	23/11/05	11	1
Correctional Services Legislation Amendment Bill 2006	Minister for Justice	02/06/06			8
Crimes Amendment (Road Accidents) Bill 2005	Attorney General	10/10/05	12/12/05	11	1
Crimes Legislation Amendment (Gangs) Bill 2006	Minister for Police	05/09/06			10
Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Bill 2005	Attorney General	23/05/05	19/04/06	6	5
Crimes (Serious Sex Offenders) Bill 2006	Minister for Justice	28/04/06			5
Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006	Attorney General	02/06/06	02/08/06		8,9
Education Legislation Amendment (Staff) Bill 2006	Minister for Education and Training	09/05/06	23/05/06		6,8
Fair Trading Amendment Bill 2006	Minister for Fair Trading	02/06/06			8
Local Government Amendment (Waste Removal Orders) Bill 2006	Minister for Local Government		09/06/06		8,9
Motor Accidents Compensation Amendment Bill 2006 and Motor Accidents (Lifetime Care and Support) Bill 2006	Minister for Commerce	24/03/06	26/04/06		3,5
Smoke-free Environment Amendment Bill 2004	Minister for Health	05/11/05	12/01/06		2
State Revenue Legislation Amendment Bill 2005	Treasurer	20/06/05	03/01/05	8	1
Terrorism (Police Powers) Amendment (Preventative Detention) Bill 2005	Attorney General	25/11/05	16/05/06	15	7
Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006	Minister for Gaming and Racing	09/05/06	24/05/06		6,8
Transport Administration Amendment (Public Transport Ticketing Corporation) Bill 2005	Minister for Transport	25/11/05 28/04/06	05/04/06	15	5
Vocational Education and Training Bill 2005	Minister for Education and Training	04/11/05	28/11/05	13	1

Bill	Minister/Member	Letter sent	Reply received	Digest 2005	Digest 2006
Water Management Amendment Bill 2005	Minister for Natural Resources	25/11/05	05/09/06	15	11

Appendix 3: Bills that received comments under s 8A of the Legislation Review Act in 2006

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Careel Bay Protection Bill 2006*	R				
Channel 7 Former Epping Site Protection Bill 2006*	R				
Children (Detention Centres) Amendment Bill 2006	R, C				
Correctional Services Legislation Amendment Bill 2006	R, C				
Crimes Amendment (Apprehended Violence) Bill 2006	R				
Crimes Amendment (Murder of Police Officers) Bill 2006*	R				
Crimes Legislation Amendment (Gangs) Bill 2006	R,C				
Crimes (Sentencing Procedure) Amendment Bill 2006	R				
Crimes (Serious Sex Offenders) Bill 2006	R, C				
Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006	R, C				
Education Legislation Amendment (Staff) Bill 2006	R, C	R, C	R, C	R, C	R, C
Electricity Supply Amendment (Protection of Electricity Works) Bill 2006	R				
Environmental Planning and Assessment Amendment Bill 2006	R				
Fair Trading Amendment Bill	R, C				
Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill 2006					N
Fines Amendment (Payment of Victims Compensation Levies) Bill 2006	N				

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Fisheries Management Amendment Bill 2006	R				
Jury Amendment (Verdicts) Bill 2006	R				
Law Enforcement (Controlled Operations) Amendment Bill 2006	R				
Law Enforcement Legislation Amendment (Public Safety) Bill 2005	R				
Local Government Amendment (Waste removal Orders) Bill 2006	R		R		
Motor Accidents (Lifetime Care and Support) Bill 2006	R, C		R, C	R	R
Motor Accidents Compensation Amendment Bill 2006	R, C		R, C		
Motor Vehicles Repairs (Anti-steering) Bill 2006	R				
Parliamentary Electorates and Elections Amendment Bill 2006	R				
Pipelines Amendment Bill 2006			R		R
Police Amendment (Police Promotions) Bill 2006				R	
Royal Rehabilitation Centre Sydney Site Protection Bill 2006*	R				
Security Industry Amendment (Patron Protection) Bill 2006*	R				
Threatened Species Conservation Amendment (Biodiversity Banking) Bill 2006				R	
Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006		R, C			
Transport Administration Amendment (Travel Concession) Bill 2006				R	
University of Technology (Kuring-gai Campus) Bill 2006*	R				

Key

R Issue referred to Parliament

N Issue Noted

C Correspondence with Minister/Member

Appendix 4: Index of correspondence on regulations reported on in 2006

Regulation	Minister/Correspondent	Letter sent	Reply	Digest 2006
Centennial Park and Moore Park Trust Regulation 2004	Minister for Tourism and Sport and Recreation	29/04/05	19/01/06	1
Companion Animals Amendment (Penalty Notices) Regulation 2005	Minister for Local Government	12/09/05	21/12/05	1
Electricity (Consumer Safety) Regulation 2006	Minister for Fair Trading	28/04/06	20/06/06	9
Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Regulation 2005	Minister for Planning	12/09/05	24/12/06	3
Health Records and Information Privacy Regulation 2006	Minister for Health	28/04/06	27/06/06	9
Hunter Water (General) Regulation 2005	Minister for Utilities	04/11/05	09/01/06	1
Motor Accidents Compensation Regulation 2005	Minister for Commerce	28/04/06	24/07/06	9
Protection of the Environment Operations (Waste) Regulation 2005	Minister for the Environment	04/11/05	29/11/05	1
Stock Diseases (General) Amendment Regulation 2005	Minister for Primary Industries	12/09/05	07/02/06	1
Photo Card Regulation 2005	Minister for Roads	26/04/06 25/08/06	21/08/06	9
Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003	Minister for Roads		03/08/06	9
Workers Compensation Amendment (Advertising) Regulation 2005	Minister for Commerce	12/09/05	28/11/05	1