

PARLIAMENT OF NEW SOUTH WALES



Legislation Review Committee

LEGISLATION REVIEW DIGEST

No 12 of 2006

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* Denotes Private Member's Bill

MEMBERSHIP & STAFF

Chair

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Vice Chair

Virginia Judge MP, Member for Strathfield

Members

Shelley Hancock MP, Member for South Coast

Robyn Parker MLC

Paul Pearce MP, Member for Coogee

Penny Sharpe MLC

Russell Turner MP, Member for Orange

Peter Wong MLC

Staff

Russell Keith, Committee Manager
Indira Rosenthal, Senior Committee Officer
Mel Keenan, Senior Committee Officer
Carly Sheen, Committee Officer
Melanie Carmeci, Assistant Committee Officer

Panel of Legal Advisers

The Committee retains a panel of legal advisers to provide advice on Bills as required.

Professor Philip Bates
Professor Simon Bronitt
Dr Steven Churches
Dr Anne Cossins
Professor David Farrier
Mr John Garnsey QC
Associate Professor Luke McNamara
Ms Rachel Pepper
Mr Rohan Price
Ms Diane Skapinker
Ms Jennifer Stuckey-Clarke
Professor George Williams

Contact Details

Legislation Review Committee
Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

Telephone

Facsimile

Email

URL

02 9230 3418
02 9230 3052
legislation.review@parliament.nsw.gov.au
www.parliament.nsw.gov.au/lrc/digests

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. Bail Amendment (Lifetime Parole) Bill 2006

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

2. Community Protection (Closure of Illegal Brothels) Bill 2006*

Denial of procedural fairness: Schedule 1[5], Amendment of section 121D of the Act

14. The Committee will always be concerned about legislation that authorises administrative decision-making without also providing for the right of those directly affected by such decision to have their views heard.
15. The Committee refers to Parliament the question whether providing that a local council is not required to give advance notice of, or to hear representations concerning, the making an order to close premises it considers are being used as an illegal brothel trespasses unduly on the right to procedural fairness.

3. Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006 & Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill 2006

1. Due to the complexity of issues raised by these bills, the Committee will report on them in a supplementary *Digest* to be tabled on 27 September 2006.

4. Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006

Prohibition orders with respect to previous conduct: Schedule 2[15], 3.1[8], 3.2[8], 3.3[10], 3.4[7], 3.5[10], 3.6[12], 3.7[8], 3.8[8], 3.9[8], 3.10[9], 3.11[8], 3.12[8] & 3.13[8]

6. Given the clear purpose of prohibition orders being to protect the health of members of the public, the Committee does not consider that this retrospective affect trespasses unduly on personal rights and liberties.

5. Professional Standards Amendment (Defence Costs) Bill 2006

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

6. Road Transport Legislation Amendment (Drug Testing) Bill 2006

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

7. Succession Bill 2006

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| 5. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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SECTION B: Ministerial Correspondence — Bills Previously Considered

8. Fair Trading Amendment Bill 2006

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| 4. The Committee thanks the Minister for her reply. |
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Part One – Bills

SECTION A: COMMENT ON BILLS

1. BAIL AMENDMENT (LIFETIME PAROLE) BILL 2006

Date Introduced:	19 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Bob Debus MP
Portfolio:	Attorney General

Purpose and Description

1. The Bill amends the *Bail Act 1978* [the Act] to provide for a presumption against bail for persons on lifetime parole in relation to offences carrying sentences of imprisonment.

Background

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

The purpose of the Bail Amendment (Lifetime Parole) Bill is to amend the Bail Act 1978 to provide for a presumption against bail for people who are on life parole and who are charged with a further offence carrying a penalty of imprisonment. This is a targeted amendment that will apply to a small group of prisoners who have had a life sentence imposed upon them but who have been released on parole for the rest of their life. To be on parole for life a prisoner must have been sentenced to imprisonment for life before the introduction of the so-called truth in sentencing reforms, which commenced in 1989, and have had their life sentence redetermined under the transitional provisions. This category of person is quite unlike any other group in society. The community might reasonably expect that lifetime parolees, following release from prison, should make every effort not to come into contact with the criminal justice system again.

... This bill is a measured response to ensure that if life parolees come before the courts again they will bear the burden of convincing the court that bail should be granted.¹

The Bill

3. The Bill imposes a presumption against bail on any person who is accused of an offence for which a penalty of imprisonment may be imposed, and who is serving a sentence of imprisonment for life and is on release on parole [proposed s 8E].
4. This presumption applies to persons who have been released on parole after having had non-parole periods determined by the Supreme Court under the *Crimes Sentencing Procedure Act 1999*, which applies to life sentences imposed during a particular period.

¹ Hon R J Debus MP, Attorney General, Legislative Assembly *Hansard*, 19 September 2006.

Bail Amendment (Lifetime Parole) Bill 2006

5. The Bill makes it clear that:
- the presumption in favour of bail does not apply to people to whom proposed s 8E applies [proposed amended 9]; and
 - the presumption against bail under s 9D will still apply to people to whom proposed s 8E applies who are accused of serious personal violence offences [proposed amended s 9D].
6. The amendments apply to a person who is charged with an offence before the Bill's amendments commence, and to a review of any bail decision made before that commencement [proposed new Part 17 of Sch 1 to the Act].

Issues Considered by the Committee

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| <p>7. 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.

2. COMMUNITY PROTECTION (CLOSURE OF ILLEGAL BROTHELS) BILL 2006*

Date Introduced: 21 September 2006

House Introduced: Legislative Assembly

Member Responsible: Ms P L Seaton MP

Purpose and Description

1. The underlying principle of this Bill is to recognise the danger to public health and safety that is caused by the operation of illegal brothels in inappropriate locations within the community.
2. The objects of this Bill are:
 - (a) to protect the community from the operation of illegal brothels;
 - (b) to encourage the restriction and regulation of brothels under instruments and policies made or adopted by local councils; and
 - (c) to facilitate the prompt closure of illegal brothels by local councils.

Background

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

Illegal brothels are a scourge on many of our communities; they breed criminal behaviour, and behaviour that is completely inconsistent with decent law-abiding families and businesses. Again I have introduced legislation for the consideration of the Chamber to protect the community from illegal brothels by giving councils the powers to act quickly to shut down such alleged premises, with the onus on the alleged illegal brothel owner to prove otherwise.²

The Bill

4. The Bill amends the *Environmental Planning and Assessment Act 1979*.
5. Specifically, the Bill amends the Table to section 121B providing for the giving of an order by a local council to cease using premises for the purposes of an illegal brothel if the use of the premises as a brothel is prohibited under an environmental planning instrument or where development consent is required but has not been obtained [Schedule 1[3]]. No advance notice of the making of the order need be given.
6. The person to whom the order is addressed (the owner of the premises or the person by whom the premises are being used as a brothel) must comply with it within 48 hours of it being given.

² Ms Peta Seaton MP, Legislative Assembly *Hansard*, 21 September 2006.

7. If the person fails to comply, the council may take such action as it “considers necessary or appropriate in order to prevent persons from entering the premises to which the order relates” [proposed s 121ZJA(1)]. This action includes entering the premises to secure, change the locks on, or erect hoardings over, any door, window or gate [proposed s 121ZJA (2)] with or without police assistance [proposed s 121ZJA (3)]. Reasonable costs incurred by the council in taking such action and in making the order are recoverable from the person required to comply with the council’s order [proposed ss 121ZJA (4) & 121ZJB respectively].
8. The Bill *exempts* a council making an order to close an illegal brothel from complying with the procedural requirements set out in sections 121F-121K of the Act.³ These requirements include:
 - consideration by a council before it makes an order, as to whether the order will or is likely to have the effect of making a resident homeless [s121G];
 - giving notice to the person concerned that the order is to be made and that they may make representations as to why it should not be made [s121H(1)];
 - allowing the person concerned the opportunity to make such representations [s121I]; and
 - making an order only after having heard and considered any such representations made [s121K].
9. The Bill also inserts a new section 39A to provide that the *State Environmental Planning Policy No 1 – Development Standards* (SEPP 1) does not apply to or in respect of development for the purposes of a brothel.

Issues Considered by the Committee

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

Denial of procedural fairness: Schedule 1[5], Amendment of section 121D of the Act

10. The Bill provides that the Council may make an order to close an illegal brothel without giving notice to those that are the subject of that order. This means that there is no opportunity for a person to make their case to the council before the order is made and put into effect.
11. Not providing an opportunity for a person to put their case or make representations before the council makes its order is a denial of procedural fairness.
12. The Committee will always be concerned about administrative action which does not afford those directly affected the right to be heard before the action is taken. This will be especially so if the action impacts adversely on individual rights and liberties.
13. Further, the Committee considers that there may be circumstances in which a council erroneously decides that premises are being used illegally as a brothel and takes action under this Bill to prevent access to the premises. In such a case, a person who may otherwise lawfully enter these premises would be prevented from doing so. In

³ See section 121D of the Act, which requires a person to comply with certain procedures *before* making an order.

such circumstances, the person subject to the order may also bear the burden of rectifying any damage to the premises caused by council action taken under this Bill (eg, repairing or replacing locks removed by the council, removing hoardings the council erects).

- 14. The Committee will always be concerned about legislation that authorises administrative decision-making without also providing for the right of those directly affected by such decision to have their views heard.**
- 15. The Committee refers to Parliament the question whether providing that a local council is not required to give advance notice of, or to hear representations concerning, the making an order to close premises it considers are being used as an illegal brothel trespasses unduly on the right to procedural fairness.**

The Committee makes no further comment on this Bill.

3. CRIMES (APPEAL AND REVIEW) AMENDMENT (DOUBLE JEOPARDY) BILL 2006 & CRIMES (APPEAL AND REVIEW) AMENDMENT (DNA REVIEW PANEL) BILL 2006

Date Introduced: 19 September 2006
House Introduced: Legislative Assembly
Minister Responsible: The Hon Morris Iemma MP
Portfolio: Premier

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| <p>1. Due to the complexity of issues raised by these bills, the Committee will report on them in a supplementary <i>Digest</i> to be tabled on 27 September 2006.</p> |
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4. HEALTH LEGISLATION AMENDMENT (UNREGISTERED HEALTH PRACTITIONERS) BILL 2006

Date Introduced: 21 September 2006
 House Introduced: Legislative Assembly
 Minister Responsible: The Hon John Hatzistergos, MLC
 Portfolio: Health

Purpose and Description

1. The objects of this Bill are:
 - (a) to amend the *Public Health Act 1991* to:
 - require health practitioners who are de-registered or subject to prohibition orders to notify their patients and employers of their de-registration or prohibition order before providing a health service;⁴
 - permit the regulations under that Act to prescribe a code of conduct for unregistered health practitioners;
 - (b) to amend the *Health Care Complaints Act 1993* to:
 - permit the Health Care Complaints Commission (the *Commission*) to:
 - give public warnings about unsafe treatments and practitioners; and
 - make prohibition orders against unregistered health practitioners who pose a substantial risk to the health of members of the public; and
 - require the Commission to publish information about de-registered health practitioners and the decisions of health registration bodies;
 - (c) to amend each of the health registration Acts to:

⁴ **Health service** includes the following services, whether provided as public or private services:

- (a) medical, hospital and nursing services,
- (b) dental services,
- (c) mental health services,
- (d) pharmaceutical services,
- (e) ambulance services,
- (f) community health services,
- (g) health education services,
- (h) welfare services necessary to implement any services referred to in paragraphs (a)–(g),
- (i) services provided by podiatrists, chiropractors, osteopaths, optometrists, physiotherapists, psychologists and optical dispensers,
- (j) services provided by dietitians, masseurs, naturopaths, acupuncturists, occupational therapists, speech therapists, audiologists, audiometrists and radiographers,
- (k) services provided in other alternative health care fields,
- (k1) forensic pathology services,
- (l) a service prescribed by the regulations as a health service for the purposes of this Act.

Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006

- permit a health registration body to make a prohibition order when cancelling or suspending a person's registration, if the person poses a substantial risk to the health of members of the public; and
 - require those bodies to publish certain decisions and give information about de-registered health practitioners.
2. The Bill also:
- prohibits advertising a health service that is to be provided by a practitioner who is de-registered or subject to a prohibition order unless the advertisement specifies that de-registration or prohibition order; and
 - provides that the period in which proceedings for an offence under Part 2A of the Public Health Act can be commenced is 2 years.

Background

3. The second reading speech stated:

In preparing the bill, officers of the Department of Health consulted with professional associations representing unregistered health practitioners and discussed its provisions with them. The associations consulted include the Australian Traditional Medicine Society, the Psychotherapy and Counselling Federation of Australia, the National Herbalists Association, the Australian Acupuncture and Chinese Medicine Association and the Australian Register of Homeopaths. The representatives of those associations have been uniformly supportive of the proposed bill as they are as concerned as the Government to remove shonks from the industry.

Consultation has been held also with the Medical Services Committee, the Australian Medical Association, and the professional associations representing unregistered health practitioners employed within the public health system, such as dieticians and orthoptists. All bodies consulted have indicated their support for the Government's policy.

Issues Considered by the Committee

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

Prohibition orders with respect to previous conduct: Schedule 2[15], 3.1[8], 3.2[8], 3.3[10], 3.4[7], 3.5[10], 3.6[12], 3.7[8], 3.8[8], 3.9[8], 3.10[9], 3.11[8], 3.12[8] & 3.13[8]

4. The Bill allows the making of prohibition orders with respect to conduct or any other matter that occurred before the Bill's commencement.
5. The Committee notes that this may adversely affect a person on the basis of conduct done prior to the commencement of the Bill.

- 6. Given the clear purpose of prohibition orders being to protect the health of members of the public, the Committee does not consider that this retrospective affect trespasses unduly on personal rights and liberties.**

The Committee makes no further comment on this Bill.

5. PROFESSIONAL STANDARDS AMENDMENT (DEFENCE COSTS) BILL 2006

Date Introduced:	19 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Bob Debus MP
Portfolio:	Attorney General

Purpose and Description

1. The Professional Standards Act 1994 (the Principal Act) provides, among other things, for the setting up of schemes that limit the liability of members of associations of practitioners of particular trades or professions if the practitioner has the benefit of an occupational liability insurance policy that provides at least a minimum level of cover set by the scheme.
2. The object of this Bill is to amend the Principal Act to enable the insurance policy to provide cover that is inclusive of defence costs. Accordingly, payments may be made under the policy to or on behalf of the practitioner in defending the claim without affecting the limitation on liability provided by the scheme.

Background

3. The second reading speech provides the following background:

The Professional Standards Amendment (Defence Costs) Bill implements a decision of the Standing Committee of Attorneys General to enable professionals who are members of schemes to hold either costs-inclusive or costs-in-addition policies to cover defence costs in addition to the indemnity amount. The Professional Standards Council, which is the independent body that approves schemes under the Act, has received legal advice that the current wording of the Act means that only costs-in-addition policies are acceptable under the Act.⁵

Issues Considered by the Committee

4. **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.

⁵ The Hon Bob Debus MP, Attorney General, Legislative Assembly *Hansard*, 19 September 2006.

6. ROAD TRANSPORT LEGISLATION AMENDMENT (DRUG TESTING) BILL 2006

Date Introduced: 19 September 2006
House Introduced: Legislative Assembly
Minister Responsible: The Hon Eric Roozendaal MLC
Portfolio: Roads

Purpose and Description

1. The Bill's objects are to:
 - (a) make amendments to the Road Transport (Safety and Traffic Management) Act 1999 [the Act] to:
 - (i) create a new offence of driving a motor vehicle with any presence of three specified illicit drugs in the driver's oral fluid, blood or urine (being the drugs known as THC, speed and ecstasy);
 - (ii) create a new offence of driving a motor vehicle with any presence of morphine or cocaine in the driver's blood or urine;
 - (iii) enable NSW Police to carry out random roadside oral fluid testing for the three specified illicit drugs referred to above;
 - (iv) enable NSW Police to carry out blood and urine testing for drugs on all drivers involved in fatal accidents;
 - (v) enable persons to be prescribed by the regulations as prescribed sample takers to take blood and urine samples for the purposes of the Act;
 - (vi) increase the period of time after driving during which a person can be required to submit to sobriety assessment or be required to provide blood and urine samples after such an assessment or if they have refused to undergo such an assessment from 2 to 4 hours after driving;
 - (b) amend the *Crimes Act 1900* to enable evidence from blood and urine analysis undertaken in accordance with the proposed new provisions relating to sampling of drivers involved in fatal accidents (as referred to above) to be used in certain prosecutions under s 52A of that Act (which relates to dangerous driving);
 - (c) amend the *Criminal Procedure Act 1986* to enable certain certificate evidence from blood and urine analysis undertaken in accordance with the proposed new provisions to be used in all criminal proceedings (other than proceedings under the *Drug Misuse and Trafficking Act 1985* relating to the use or administration of prohibited drugs;
 - (d) amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable police officers to prohibit a person who has failed an oral fluid test, or has refused or failed to undergo an oral fluid test, or has refused to provide an oral

fluid sample, from driving the person's vehicle for a period of 24 hours or from supervising a learner driver for such a period; and

- (e) make consequential amendments to the provisions of the *Road Transport (General) Act 2005* that relate to driver disqualification to take account of the amendments to the Act referred to above.

Background

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

The purpose of this bill is to provide NSW Police with new powers to detect drug drivers and create new drug-driving offences. The bill introduces random roadside drug testing and provides for drug testing of any driver, rider or supervising licence holder involved in a fatal crash. The bill amends the Road Transport (Safety and Traffic Management) Act 1999 and other legislation to ensure that motorists who take drugs and drive can be detected and penalised just as those who drink drive...

Existing New South Wales legislation allows police to test for drugs in limited circumstances, where the police officer has a reasonable belief that a motorist may be under the influence of an illicit drug. This bill gives police the power to drug test drivers without prior evidence of impairment in two additional situations - randomly at the roadside or following a fatal crash.⁶

The Bill

3. The Bill provides that it is an offence for a person, while there is present in his or her oral fluid, blood or urine any prescribed illicit drug, to drive or attempt to drive a motor vehicle or, while holding a driver licence, sit next to a learner driver driving a motor vehicle [proposed s 11B(1)].⁷
4. Similarly, a person must not, while there is present in his or her blood or urine any morphine or cocaine, drive or attempt to drive a motor vehicle or, while holding a driver licence, sit next to a learner driver driving a motor vehicle [proposed s 11B(3)].⁸
5. The maximum penalty for both offences is 10 penalty units in the case of a first offence (currently \$1,100), or 20 penalty units in the case of a second or subsequent offence (currently \$2,200).

⁶ Mr M J Brown MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 19 September 2006. The Minister is to review the Act to determine whether its policy objectives remain valid and whether its terms remain appropriate for securing those objectives. The review is to be undertaken as soon as possible after the period of 12 months from the date of commencement of Division 3A or 4A of Part 2 of the Act, whichever is the earlier: see proposed Div 8 Sch 2 to the Act.

⁷ The Bill provides that a prescribed illicit drug is any of the following:

- delta-9-tetrahydrocannabinol (also known as THC);
- methylamphetamine (also known as speed); or
- methylenedioxymethylamphetamine (also known as ecstasy).

⁸ It is a defence under proposed s 11B(3) if the defendant proves that the presence in the defendant's blood or urine of morphine was caused by the consumption of a substance for medicinal purposes: proposed s 11B(5) & (6).

Random testing

6. A police officer may conduct random oral fluid tests of a person if the police officer has reasonable cause to believe that the person:
 - is or was driving a motor vehicle on a road or road related area;
 - is or was occupying the driving seat of a motor vehicle on a road or road related area and attempting to put the motor vehicle in motion; or
 - being the holder of a driver licence, is or was occupying the seat in a motor vehicle next to a holder of a learner licence while the holder of the learner licence is or was driving the vehicle on a road or road related area [proposed s 18B(1)].
7. Refusal or failure to undergo an oral fluid test when required is an offence, with a maximum penalty of 10 penalty units (currently \$1,100).⁹ A police officer may arrest a person who has so failed or refused, and take them with such force as may be necessary to a police station or such other place as the officer considers desirable, and there detain the person for the purpose of the person providing oral fluid [proposed s 18C].
8. A police officer may require a person who has *attempted* to provide an oral fluid sample as directed, but has been unable to comply (eg, because no oral fluid was physically able to be produced), to provide a sample of the person's blood – whether or not the person consents to the provision of the sample – in accordance with the directions of a medical practitioner, registered nurse or prescribed sample taker [proposed s 18E].¹⁰
9. A refusal or failure to so provide will be an offence with a maximum penalty of 30 penalty units (currently \$3,300) in the case of a first offence or 50 penalty units (currently \$5,500), or imprisonment for 18 months, or both, in the case of a second or subsequent offence [proposed s 18E(9)].

Fatal accidents

10. Where a police officer believes that:
 - a road accident is a fatal accident; or
 - it is more likely than not that a person will die within 30 days as a consequence of the accident,the police officer may:
 - arrest a person without warrant;
 - take the person (or cause the person to be taken) with such force as may be necessary to a hospital or other prescribed place; and

⁹ It will be a defence to a prosecution for this offence if the defendant satisfies the court that the defendant was unable, on medical grounds, to undergo the oral fluid test at the time the defendant was required to do so.

¹⁰ Proposed s 18F provides exceptions to the requirement to give a blood sample.

- detain the person, or cause the person to be detained, at the hospital or other prescribed place to enable the person to provide blood and urine samples [proposed s 24A].¹¹
11. Under the Bill it is an offence to:
- refuse or fail to submit to the taking of the sample of blood;
 - refuse or fail to provide the sample of urine, in accordance with the directions of a medical practitioner, registered nurse or prescribed sample taker; or
 - between the time of the fatal accident concerned and the time when the person provides a sample, wilfully do anything to introduce, or alter the amount of, a drug in the person's blood or urine [proposed s 24D].
12. The maximum penalty is 30 penalty units (currently \$3,300) in the case of a first offence or 50 penalty units (currently \$5,500), or imprisonment for 18 months, or both, in the case of a second or subsequent offence.

Privacy

13. Proposed s 18H provides for privacy protection of samples, making it an offence to intentionally or recklessly:
- supply, or cause or permit to be supplied, a Division 3A sample to a person for analysis for a purpose other than determining whether any prescribed illicit drugs are present in the sample, or
 - carry out, or cause or permit to be carried out, analysis for a purpose other than determining whether any prescribed illicit drugs are present in the sample, or
 - include, or cause the inclusion of, information derived from a prohibited analysis on a DNA database kept under a law of this State or the Commonwealth or of another State or a Territory.
14. The maximum penalty is 30 penalty units (\$3,300).

Issues Considered by the Committee

- 15. 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.

¹¹ Proposed s 24A applies to a person who:

- is at least 15 years old; and
- at the time of an accident, was:
 - driving a motor vehicle involved in the accident;
 - occupying the driving seat of a motor vehicle involved in the accident and attempting to put the motor vehicle in motion; or
- the holder of a driver licence and occupying the seat in the motor vehicle next to a holder of a learner licence who was driving a motor vehicle involved in the accident; and
- is not an accident patient within the meaning of s 20.

7. SUCCESSION BILL 2006

Date Introduced:	19 September 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Bob Debus MP
Portfolio:	Attorney General

Purpose and Description

1. The object of this Bill is to restate, with amendments, the law relating to wills in New South Wales in order to implement (with modifications) the recommendations of the National Committee for Uniform Succession Laws regarding the law of wills contained in its final report to the Standing Committee of Attorneys-General in December 1997. Those recommendations were endorsed by the New South Wales Law Reform Commission in Report 85 (1998) *Uniform Succession Laws: The Law of Wills*.
2. The Bill repeals those provisions of the *Wills, Probate and Administration Act 1898* relating to wills and renames the remaining provisions of that Act as the *Probate and Administration Act 1898*.

Background

3. In his second reading speech, the Attorney General stated:

In 1991 the Standing Committee of Attorneys-General [SCAG] initiated the uniform succession laws project. The objective of this project is to develop model legislation to be used as the basis for reform by Australian States and Territories with a view to each jurisdiction adopting uniform, or at least consistent, succession laws...

In 1995 the National Committee for Uniform Succession Laws, chaired by the Queensland Law Reform Commission, was established to examine four discrete areas of succession law—the law of wills, family provision, intestacy and the administration of estates. In December 1997 the national committee presented a final report to SCAG on the law of wills. The Law Reform Commission in each State and Territory then released the report. The New South Wales Law Reform Commission released report No. 85 on the law of wills in April 1998. The Law Reform Commission reports contain a model wills bill. The model bill was generally based on the Victorian Wills Act 1994, which in turn was based on a bill contained in the Victorian Parliament's Law Reform Committee's 1994 report on reforming the law of wills.

The Succession Bill largely mirrors the model bill. It also adopts some of the adjustments made in other jurisdictions as they have implemented the model bill. Victoria, the Northern Territory, Queensland and Western Australia have implemented the model bill.

...

This bill will have a wide impact on the people of New South Wales. It is important that people are made aware of the impact of its changes. My Department has formed a committee to plan how to implement the bill and educate the legal profession and community about the changes. The committee includes representatives from the Supreme Court, the Public Trustee and trustee organisations, the legal profession,

legal educators and government. I expect that it will take some months to complete these preparations. The bill will commence once these preparations are complete.¹²

The Bill

4. Significant changes to the law of wills effected by the Bill include the following:
- (a) the introduction of court authorised wills for people who lack testamentary capacity,
 - (b) the provision of statutory guidance in relation to the matters to be taken into consideration by the court in authorising a minor to make a will,
 - (c) new rules about beneficiaries who witness wills,
 - (d) new rules about survivorship,
 - (e) revision of the law relating to foreign wills to bring New South Wales law relating to choice of law issues into line with the law in other jurisdictions,
 - (f) new provisions about who is entitled to see a will on the death of a testator,
 - (g) new provisions for the deposit of wills,
 - (h) provisions relating to the admission of limited evidence to aid in the interpretation of wills.

Issues Considered by the Committee

5. **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.

¹² The Hon Bob Debus MP, Attorney General, Second Reading Speech, Legislative Assembly Hansard, 19 September 2006.

SECTION B: MINISTERIAL CORRESPONDENCE — BILLS PREVIOUSLY CONSIDERED

8. FAIR TRADING AMENDMENT BILL 2006

Ministerial Correspondence

Date Introduced:	24 May 2006
House Introduced:	Legislative Assembly
Minister Responsible:	The Hon Diane Beamer MP
Portfolio:	Fair Trading

Background

1. The Committee reported on this Bill in its Legislation Review *Digest* No. 8 of 2006.
2. The Committee resolved to write to the Minister for advice and clarification as to:
 - why investigating complaints that do not involve breaches of the legislation, or researching and conducting investigations into laws in force, justifies, and is in proportion to, the abrogation of the right to silence; and
 - why there is no restriction on the use of self-incriminating information in civil proceedings or indirectly in criminal proceedings.

Minister's Reply

3. In the Minister's reply to the Committee's concerns dated 7 June 2006, she stated:

I consider that the extension of section 20 is justified by the need to provide the Commissioner of Fair Trading with sufficient power to carry out her functions effectively. For example, one of the Commissioner's functions is to deal with complaints from consumers. This frequently involves investigating a complaint and assisting a consumer to negotiate an acceptable outcome with a trader. Without any power to obtain information in this situation the Commissioner's ability to assist consumers to resolve disputes can be limited.

Another of the Commissioner's functions is to keep under critical examination and report to the Minister on current legislation and other matters relating to the interests of consumers,... Given the current emphasis on assessing potential costs and benefits before a decision is made to regulate, the ability to gather information on these issues is extremely valuable.

In drafting the amendment to section 20, care was taken to ensure that the new powers were framed so as to interfere with individual rights to the minimum extent possible. The power to obtain information is only to be able to be exercised by the Commissioner or her delegate, and only senior officers will be given a delegation. When using the power, the delegate must provide evidence of his or her identity and delegation if so requested to do so by a person subject to a notice under section 20. Further, the power is only exercisable where the information is relevant to a specific complaint or matter which is being investigated by the Commissioner. The power is

not able to be used merely to gather information about any issue that affects consumers.

Committee's Response

4. The Committee thanks the Minister for her reply.



PARLIAMENT OF NEW SOUTH WALES
LEGISLATION REVIEW COMMITTEE

2 June 2006

Our Ref: LRC1856

The Hon Diane Beamer MP
Minister for Fair Trading
Level 33, Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

Fair Trading Amendment Bill 2006

Pursuant to its obligations under s 8A of the *Legislation Review Act 1987*, the Committee has considered the above Bill. The Committee will be reporting its consideration of the Bill in its *Legislation Review Digest No. 8 of 2006*.

The Committee resolved to write to you for advice and clarification on the following matters.

Right to Silence: Proposed subsections 20(1)(c) and (d)

The Committee notes that the privilege against self-incrimination is a fundamental right expressed in the International Covenant on Civil and Political Rights and the common law. The Committee is of the view that a bill should not abrogate the right to silence unless such abrogation is justified by, and in proportion to, an object in the public interest.

The Committee seeks your advice as to why investigating complaints that do not involve breaches of the legislation, or researching and conducting investigations into laws in force, justifies, and is in proportion to, the abrogation of the right to silence under the Bill.

Use of Self-Incriminating Evidence: Proposed subsections 20(1)(c) and (d)

The Committee considers that, unless clearly justified, when a bill abrogates the privilege against self-incrimination, information that would otherwise have been subject to this privilege should not be used in any proceedings (including proceedings of a criminal, civil, administrative or disciplinary nature) against the individual, except for proceedings relating to the falsity of the information provided.

The Committee seeks your advice as to why there is no restriction on the use of such self-incriminating information obtained under proposed subsections 20(1)(c) and (d) in civil proceedings or indirectly in criminal proceedings.

The Committee looks forward to receiving your advice on the above matters.

Yours sincerely



Allan Shearan MP
Chairman



**Minister for Western Sydney
Minister for Fair Trading
Minister Assisting the Minister for Commerce**

RML: M06/2673
File No: 03/43986

7 June 2006

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

Dear Mr Shearan

I refer to your correspondence of 2 June 2006 concerning the Fair Trading Amendment Bill 2006.

I have noted your concerns regarding the proposed amendment to section 20 of the *Fair Trading Act 1987*:

In its current form, section 20 allows an investigator to require a person who is believed on reasonable grounds to be capable of providing information, documents or evidence in relation to a possible breach of legislation or matter that may lead to a reference to the Products Safety Committee or an advisory committee, to provide such information.

Section 20(4) already provides that a person who is required to provide information, documents or evidence under section 20 is not excused from doing so on the ground that the information, documents or evidence may tend to incriminate them.

The amendment to section 20 therefore does not introduce a new abrogation of the right to silence, but merely extends section 20 so that it can be used to require the provision of information, documents or evidence in relation to:

- a matter that is the subject of a complaint received by the Commissioner for Fair Trading under section 9(1)(c); or
- a matter that is the subject of an investigation by the Commissioner under section 9(2).

Having said this, while section 20(4) does abrogate the right to silence, section 20(5) provides that any information, document or evidence obtained from a person under section 20 is inadmissible against the person in criminal proceedings other than proceedings for failing to produce the information or providing false information.

Level 33, Governor Macquarie Tower,
1 Farrer Place, Sydney NSW 2000
Tel: (02) 9228 4130 Fax: (02) 9228 4131
Email Address: MinWestSyd@beamer.minister.nsw.gov.au

I consider that the extension of section 20 is justified by the need to provide the Commissioner for Fair Trading with sufficient power to carry out her functions effectively. For example, one of the Commissioner's functions is to deal with complaints from consumers. This frequently involves investigating a complaint and assisting a consumer to negotiate an acceptable outcome with a trader. Without any power to obtain information in this situation the Commissioner's ability to assist consumers to resolve disputes can be limited.

Another of the Commissioner's functions is to keep under critical examination and report to the Minister on current legislation and other matters relating to the interests of consumers, including matters which are referred to the Commissioner by the Minister. Once again, if the Commissioner has no power to obtain information, it is very difficult to assess the effectiveness of existing consumer protection legislation, or to investigate emerging consumer protection issues in order to ascertain whether the Government needs to act to protect consumers. Given the current emphasis on assessing potential costs and benefits before a decision is made to regulate, the ability to gather information on these issues is extremely valuable.

In drafting the amendment to section 20, care was taken to ensure that the new powers were framed so as to interfere with individual rights to the minimum extent possible. The power to obtain information is only able to be exercised by the Commissioner or her delegate, and only senior officers will be given a delegation. When using the power, the delegate must provide evidence of his or her identity and delegation if requested to do so by a person subject to a notice under section 20. Further, the power is only exercisable where the information is relevant to a specific complaint or matter which is being investigated by the Commissioner. The power is not able to be used merely to gather information about any issue that affects consumers.

As mentioned previously, a final important limitation on the operation of the new power is the fact that information obtained from a person under section 20 is inadmissible against the person in any criminal proceeding other than proceedings in relation to failure to comply with section 20 or provision of false information.

I trust that this information is of assistance.

Yours sincerely

A handwritten signature in cursive script that reads "Diane Beamer".

The Hon Diane Beamer MP

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
Bail Amendment (Lifetime Parole) Bill 2006	12
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
Community Protection (Closure of Illegal Brothels) Bill 2006*	12
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

	Digest Number
Duties Amendment (Abolition of State Taxes) Bill 2006	9
Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006	8
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
Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006	12
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

	Digest Number
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
Police Amendment (Death and Disability) Bill 2005	1
Police Amendment (Police Promotions) Bill 2006	10
Police Integrity Commission Amendment Bill 2006	10
Professional Standards Amendment (Defence Costs) Bill 2006	12
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
Road Transport Legislation Amendment (Drug Testing) Bill 2006	12
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
Succession Bill 2006	12
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

	Digest Number
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	07/06/06		8,12
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				
Community Protection (Closure of Illegal Brothels) Bill 2006*	R				
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

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Fines Amendment (Payment of Victims Compensation Levies) Bill 2006	N				
Fisheries Management Amendment Bill 2006	R				
Health Legislation Amendment (Unregistered Health Practitioners) 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			

	(i) Trespasses on rights	(ii) insufficiently defined powers	(iii) non reviewable decisions	(iv) delegates powers	(v) parliamentary scrutiny
Transport Administration Amendment (Travel Concession) Bill 2006				R	
University of Technology (Kuring-gai Campus) Bill 2006*	R				

Key

- R Issue referred to Parliament
- C Correspondence with Minister/Member
- N Issue Noted

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