



Legislation Review Committee

LEGISLATION REVIEW DIGEST

NO. 53/55 – 25 March 2014



New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Assembly.

Legislation Review Committee Legislation Review Digest, Legislation Review Committee, Parliament NSW [Sydney, NSW]: The Committee, 2014, 31p 30 cm

Chair: Mr Stephen Bromhead MP

25 March 2014

ISSN 1448-6954

1. Legislation Review Committee – New South Wales

2. Legislation Review Digest No. 53 of 55

I Title.

II Series: New South Wales. Parliament. Legislation Review Committee Digest; No. 53 of 55

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

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Membership

CHAIR	Mr Stephen Bromhead MP, Member for Myall Lakes
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Functions of the Committee

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

8A Functions with respect to Bills

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

9 Functions with respect to Regulations

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

- v that the objective of the regulation could have been achieved by alternative and more effective means,
 - vi that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
 - vii that the form or intention of the regulation calls for elucidation, or
 - viii that any of the requirements of sections 4, 5 and 6 of the *Subordinate Legislation Act 1989*, or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.
- 2 Further functions of the Committee are:
- (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
 - (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.

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

Guide to the Digest

COMMENT ON BILLS

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

Ministerial Correspondence – Bills previously considered

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

COMMENT ON REGULATIONS

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

Regulations for the special attention of Parliament

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

Regulations about which the Committee is seeking further information

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

Copies of Correspondence on Regulations

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

APPENDIX 1: INDEX OF MINISTERIAL CORRESPONDENCE ON BILLS

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

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

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

Conclusions

PART ONE - BILLS

1. CRIMES (SENTENCING PROCEDURE) AMENDMENT (VICTIMS IMPACT STATEMENTS – MANDATORY CONSIDERATION) BILL 2014*

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

Inconsistent Sentencing

The Committee notes that the mandatory consideration by a court of a victim impact statement before sentencing may lead to inconsistent sentencing for otherwise substantially similar offences where a victim impact statement has not been provided. The Committee refers this matter to Parliament for its further consideration.

2. COMMUNITY SERVICES (COMPLAINTS, REVIEWS AND MONITORING) AMENDMENT BILL 2014

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

3. OMBUDSMAN AMENDMENT (ABORIGINAL PROGRAMS) BILL 2014

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

4. RACING ADMINISTRATION AMENDMENT (SPORTS BETTING NATIONAL OPERATIONAL MODEL) BILL 2014

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

New Offences and Penalties

The Committee notes that the Bill introduces new offences and penalties including a \$5,500 fine or imprisonment for 12 months, or both, for offering a betting service in relation to a sporting event without an integrity agreement being in place. Nonetheless, this penalty aligns with penalties for similar offences under the *Racing Administration Act 1998* and the *Unlawful Gambling Act 2009*; and the provisions further the intention of the Bill which is to ensure sport is played honestly and fairly; and that sporting events on which punters wager money are openly contested and free of manipulation. In the circumstances, the Committee makes no further comment.

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

Commencement by Proclamation

The Committee prefers legislation of this kind, which may impact on personal rights and liberties, to commence on a fixed date or on assent.

5. TAFE CHANGES MORATORIUM (SECURE FUTURE FOR PUBLIC PROVISION OF VOCATIONAL EDUCATION AND TRAINING) BILL 2014*

LEGISLATION REVIEW COMMITTEE

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

6. UNIVERSITIES LEGISLATION AMENDMENT (REGULATORY REFORMS) BILL 2014

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

PART TWO – REGULATIONS

The Committee does not report on any Regulations in this Digest.

Part One - Bills

1. Crimes (Sentencing Procedure) Amendment (Victims Impact Statements – Mandatory Consideration) Bill 2014*

Date introduced	20 March 2014
House introduced	Mr John Robertson MP
Minister responsible	Private Member's Bill
Portfolio	N/A

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Crimes (Sentencing Procedure) Act 1999* to require courts to receive and consider victim impact statements.
2. The Bill also provides for the giving of a victim impact statement to assist a court in relation to sentencing and provides for the giving of a community impact statement where the court has received no primary victim impact statement or family victim impact statement.

BACKGROUND

3. This Bill has been introduced following concerns about the four-year sentence given to a man convicted of the death of Sydney teenager, Thomas Kelly. Although the family of Mr Kelly were entitled to make a victim impact statement to the court following conviction, the sentiments expressed were not able to be used as a factor in sentencing.
4. This Bill seeks to remedy that constraint by not only allowing judges to take into account such statements in sentencing, but making it mandatory.

OUTLINE OF PROVISIONS

5. Clause 1 sets out the name (also called the short title) of the proposed Act.
6. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.
7. Schedule 1 [2] removes a court's discretion to receive and consider victim impact statements and instead requires the court to receive and consider different kinds of victim impact statements in different circumstances.

8. If the primary victim of an offence has not died as a direct result of the offence the court must receive and consider a primary victim impact statement. If the primary victim has died as a direct result of the offence the court must receive and consider a family victim impact statement or, if the court receives no family victim impact statement and no family victim objects, a community impact statement.
9. The giving of a victim impact statement remains discretionary and, accordingly, the court is not required to receive and consider a victim impact statement if none is given.
10. Schedule 1 [2] also provides for the giving of a victim impact statement by the prosecutor on behalf of the person who made the statement to assist the court in relation to sentencing the offender. Schedule 1 [3] repeals provisions inconsistent with, or made redundant by, the amendments made by Schedule 1 [2]. Schedule 1 [4] and [6] make consequential amendments.
11. Schedule 1 [1] expands the definition of victim impact statement in the Crimes (Sentencing Procedure) Act 1999 to include a community impact statement, which is defined as a statement by or on behalf of the Commissioner of Victims Rights containing particulars of the impact of the offence, or the impact of offences of the same kind, on people living or working in the location in which the offence was committed or on the community generally or any particular sections of the community. Schedule 1 [5] revises terminology.

ISSUES CONSIDERED BY COMMITTEE

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

Inconsistent Sentencing

12. Schedule 1[2] provides that the prosecutor may give the court a victim impact statement in relation to sentencing the offender. The Bill removes the discretion of the court to consider the victim impact statements and instead makes it mandatory for these statements to be received and considered by the court. These statements are to be used to assist the court in relation to sentencing the offender.
13. This Schedule also provides for a community impact statement to be made by a Commissioner of Victims Rights in circumstances where a victim impact statement has not been made.
14. In cases where the primary victim has died, the Committee notes that the purpose of a victim impact statement is to explain to the court the effect of the death on the victim's immediate family.
15. The Committee notes that victims of crime who have immediate family, and articulate family members, may be in a better position to express the effect of the victim's death than a victim of crime with no immediate family, or family members less able to express the impact of the death. As courts will be required under this Bill to give weight to victim impact statements in sentencing, this may lead to inconsistent sentencing for otherwise substantially similar offences.
16. While the Committee also notes that community impact statements could be provided in these circumstances, it also notes that under Schedule 1[1], community impact statements would be limited to describing the impact of an offence on people living or

working in the location of the offence, or the community generally. The Committee notes that the impact of an individual is likely to have a lesser impact on people living in the community broadly, than individual family members. As such, there remains the risk that sentences relating to victims without immediate family members will be lesser than sentences relating to victims with immediate family members.

The Committee notes that the mandatory consideration by a court of a victim impact statement before sentencing may lead to inconsistent sentencing for otherwise substantially similar offences where a victim impact statement has not been provided. The Committee refers this matter to Parliament for its further consideration.

2. Community Services (Complaints, Reviews and Monitoring) Amendment Bill 2014

Date introduced	20 March 2014
House introduced	Legislative Assembly
Minister responsible	The Hon Pru Goward MP
Portfolio	Family and Community Services

PURPOSE AND DESCRIPTION

1. The objects of this Bill are as follows:
 - (a) to authorise the Ombudsman to review the systems of service providers of community services and to make reports and recommendations in relation to them,
 - (b) to make it clear that persons advocating on behalf of persons provided with community services are included in the complaints resolution process,
 - (c) to extend the objects of the Community Services (Complaints, Reviews and Monitoring) Act 1993 (the Act),
 - (d) to make further provision for the functions of the Ombudsman in respect of the prevention or reduction of reviewable deaths,
 - (e) to make other minor amendments to the Act.

BACKGROUND

2. This Bill arises from a statutory review of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* by the former Committee on the Office of the Ombudsman and the Police Integrity Commission and from amendments proposed by the NSW Ombudsman.

OUTLINE OF PROVISIONS

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

Schedule 1 Amendment of Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2

5. Schedule 1 [1] makes it clear that the object of the Act to encourage compliance with, and facilitate awareness of, community welfare legislation may be achieved by education.

COMMUNITY SERVICES (COMPLAINTS, REVIEWS AND MONITORING) AMENDMENT BILL 2014

6. Schedule 1 [2], [5]–[8], [11], [13], [17], [19], [20], [23] and [24] update references to Departments and Ministers to reflect changes to Government administrative arrangements and make consequential amendments. Some functions currently conferred on the relevant Department head are now conferred on the Chief Executive of Ageing, Disability and Home Care (as a consequence of the abolition of the Department of Ageing, Disability and Home Care).
7. Schedule 1 [3] corrects a reference to the Children and Young Persons (Care and Protection) Act 1998 in the definition of child in care. Schedule 1 [4] repeals a redundant provision in the definition of child in care.
8. Schedule 1 [9] authorises the Ombudsman to report on and make recommendations to the Minister and others about any systemic issues relating to the provision of community services by service providers.
9. Schedule 1 [10] re-enacts a provision that empowers certain persons to make a community services complaint on behalf of others to make it clear that an advocate for a person to whom a community service is provided can make a complaint on the person's behalf.
10. Schedule 1 [12] enables the Child Death Review Team to include representatives not only from the Ministry of Health, but also from other bodies or organisations that are part of a broader group known as NSW Health (such as the Health Administration Corporation).
11. Schedule 1 [14] makes it clear that certain persons under a duty to provide records to the Child Death Review Team are also required to provide any document that assists to explain those records. Schedule 1 [15] and [16] are consequential amendments.
12. Schedule 1 [18] extends the Ombudsman's functions to include undertaking research or other projects in partnership with other persons or bodies for the purpose of formulating strategies to reduce or remove risk factors associated with reviewable deaths that are preventable.
13. Schedule 1 [21] imposes a duty on certain doctors and other health care professionals to provide the Ombudsman with access to records relating to reviewable deaths, in so far as they are relevant to the Ombudsman's functions, and copies of such records. The duty extends to records that the doctors and other health care professionals concerned may require other persons to produce.
14. Schedule 1 [22] authorises the Ombudsman to provide information obtained under Part 6 of the Act to persons in connection with research that is undertaken to prevent or reduce the likelihood of reviewable deaths in New South Wales. If the personal information is provided to a person who is not a public sector agency, the Ombudsman must ensure that the person agrees to deal with the information in accordance with the relevant information protection principles that would apply if the person were a public sector agency.
15. Schedule 1 [25] enables savings and transitional regulations to be made as a consequence of amendments to the Act. Schedule 1 [26] contains a specific transitional provision.

ISSUES CONSIDERED BY COMMITTEE

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

3. Ombudsman Amendment (Aboriginal Programs) Bill 2014

Date introduced	18 March 2014
House introduced	Legislative Assembly
Minister responsible	The Hon. Victor Dominello MP
Portfolio	Minister for Citizenship and Communities and Minister for Aboriginal Affairs

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Ombudsman Act 1974*:
 - (a) to provide for the monitoring and assessment by the Ombudsman of designated Aboriginal programs (being Government initiatives or services relating to Aboriginal affairs prescribed by the regulations), and
 - (b) to provide for the appointment of a Deputy Ombudsman for the purpose of enabling the Ombudsman to monitor and assess those Aboriginal programs.

BACKGROUND

2. Recent independent reports have called on the government to have greater accountability in the design and delivery of programs and services for Aboriginal people. These include two reports by the NSW Ombudsman, *Addressing Aboriginal disadvantage: the need to do things differently* and *Responding to child sexual assault in Aboriginal communities* and the NSW Auditor-General's report, *Two ways together – NSW Aboriginal Affairs Plan*.
3. In response to the Auditor-General's report, the Minister for Aboriginal Affairs established and chaired the NSW Government Ministerial Taskforce for Aboriginal Affairs which made recommendations to the Government about improving education and employment opportunities for Aboriginal people across NSW and improving service delivery and accountability in Aboriginal affairs. In response to the taskforce's recommendations, the NSW Government's Plan for Aboriginal affairs, *Opportunity, Choice, Healing, Responsibility and Empowerment (OCHRE)*, was created. As part of OCHRE consultations with Aboriginal communities it was proposed that an Aboriginal Deputy Ombudsman should be appointed

OUTLINE OF PROVISIONS

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on 1 July 2014.

Schedule 1 Amendment of Ombudsman Act 1974 No 68

6. Schedule 1 [1] provides for the appointment of a Deputy Ombudsman for the purpose of enabling the Ombudsman to monitor and assess Aboriginal programs under proposed Part 3B.
7. Schedule 1 [2] inserts proposed Part 3B (proposed sections 25K–25N) into the Act.
8. Proposed section 25K enables the regulations to prescribe the Aboriginal programs to which the proposed Part applies.
9. Proposed section 25L requires the Ombudsman to monitor and assess Aboriginal programs to which the proposed Part applies. The proposed section also applies for that purpose the powers and protections of the Ombudsman in the investigation of complaints.
10. Proposed section 25M enables the Ombudsman to access information held by public authorities that is reasonably required by the Ombudsman for the purposes of the proposed Part.
11. Proposed section 25N enables the Ombudsman to report on any matter concerning an Aboriginal program to which the proposed Part applies (including any recommendations for improvements in the delivery of any such Aboriginal program).

ISSUES CONSIDERED BY COMMITTEE

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

4. Racing Administration Amendment (Sports Betting National Operational Model) Bill 2014

Date introduced	19 March 2014
House introduced	Legislative Assembly
Minister responsible	The Hon. George Souris MP
Portfolio	Minister for Tourism, Major Events, Hospitality and Racing

PURPOSE AND DESCRIPTION

1. The object of this Bill is to regulate betting on sporting events in line with the National Policy on Match-Fixing in Sport by:
 - (a) recognising sports controlling bodies in relation to sporting events, and
 - (b) requiring that a person who seeks to have a sporting event prescribed as a declared betting event (or who seeks a new type of bet in relation to such an event):
 - i must enter into an integrity agreement with the sports controlling body for the sporting event, or
 - ii if there is no sports controlling body, must consult with the key persons or bodies involved in the administration of the sporting event, and
 - (c) requiring betting service providers to be licensed and to enter into integrity agreements with the sports controlling body for a sporting event before being permitted to offer betting services in relation to the sporting event, and
 - (d) specifying the matters that must be addressed in integrity agreements, and
 - (e) permitting the sports controlling body for a sporting event:
 - i to prevent the sporting event being prescribed as a declared betting event, and
 - ii to prevent new types of bets being permitted, and to apply to have existing types of bets prohibited, in respect of a sporting event that has been prescribed as a declared betting event.

BACKGROUND

2. In his second reading speech to Parliament, the Hon. George Souris MP stated that the Bill's object is to regulate betting on sporting events in line with the National Policy on Match Fixing in Sport agreed to by all Australian Sports Ministers in June 2011. As part

of the national policy, the Ministers agreed to a national operational model for sports betting in September 2011 and the Bill implements this operational model.

3. The operational model provides a framework for betting service providers to enter integrity agreements with sports controlling bodies and contains integrity measures to prevent, investigate and assist in the prosecution of match fixing or corrupt behaviour.

OUTLINE OF PROVISIONS

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

Schedule 1 Amendment of Racing Administration Act 1998 No 114

6. Schedule 1 [1] changes the name of the Racing Administration Act 1998 (the principal Act) to the Betting and Racing Act 1998 to better reflect the matters with which the principal Act is concerned.
7. Schedule 1 [7] omits sections 18–20 of the principal Act and inserts a number of new provisions (the key provisions) that regulate betting on sporting events in line with the National Policy on Match-Fixing in Sport.
8. Proposed section 17A sets out definitions of sporting event and sports controlling body for the purposes of Division 2 of Part 3 of the principal Act, it also permits the regulations to declare that an event or class of event is, or is not, a sporting event and any such declaration is to be conclusive for the purposes of that Division.
9. Proposed section 17B provides that a person or body may be prescribed by the Minister as the sports controlling body for a sporting event. It is envisaged that the proposed section will be administered by the Minister for Sport and Recreation, who will prescribe the relevant sports controlling bodies.
10. Proposed section 18 permits the Minister to prescribe an event or class of event (whether or not a sporting event) as a declared betting event. When prescribing a declared betting event, the Minister must also prescribe the types of bets that are permitted to be made on the declared betting event. The Minister is not to prescribe a declared betting event or to prescribe a new type of bet for an existing declared betting event unless an application to do so has been made by a person (the applicant) who is a licensed bookmaker who holds a declared betting event authority or who is a licensee under the Totalizator Act 1997. If the declared betting event is a sporting event and the Minister receives an application from the sports controlling body for the sporting event asking the Minister to remove a particular type of bet that can be made on the event, the Minister must give effect to the application unless the Minister considers that it would not be in the public interest to do so.
11. Proposed section 18A sets out the requirements that must be met before the Minister is permitted to prescribe a sporting event that has a sports controlling body as a declared betting event or to prescribe a new type of bet for any such existing declared betting event. The Minister must be satisfied that there is an integrity agreement in place between the applicant and the sports controlling body. The integrity agreement must

set out the measures that will be used to prevent, investigate and assist in the prosecution of any match fixing or other corrupt behaviour related to betting on the sporting event, provide for funding to go to the sports controlling body for those purposes, make provision for information sharing between the applicant and the sports controlling body and provide for a consultation process whereby the applicant will consult with the sports controlling body before making any future applications. The Minister must also be satisfied that the applicant has consulted the sports controlling body in respect of the making of the application and the sports controlling body does not oppose the application.

12. Proposed section 18B sets out the requirements that must be met before the Minister is permitted to prescribe a sporting event that does not have a sports controlling body as a declared betting event or to prescribe a new type of bet for any such existing declared betting event. The Minister must be satisfied that the applicant has taken reasonable steps to consult with the key persons or bodies involved in the administration of the sporting event. The consultation is only required if the sporting event takes place in Australia. The Minister must also take into consideration the public interest, any potential impact on the integrity of the sporting event and if the sporting event takes place in Australia, the views (if any) of the key persons or bodies involved in the administration of the sporting event.
13. Proposed section 18C creates an offence (maximum penalty of \$11,000 for a corporation or \$5,500 or imprisonment for 12 months (or both) for an individual) if a betting service provider (being a bookmaker, a person who operates a totalizator or a person who operates a betting exchange) offers a betting service (accepting or offering to accept a bet, inviting a person to place a bet or facilitating the placing of a bet) in relation to a sporting event unless the betting service provider is a licensed betting service provider and has entered an integrity agreement with the sports controlling body for the sporting event. The integrity agreement must set out the measures that will be used to prevent, investigate and assist in the prosecution of any match fixing or other corrupt behaviour related to betting on the sporting event, provide for funding to go to the sports controlling body for those purposes and make provision for information sharing between the licensed betting service provider and the sports controlling body. There is no requirement under the proposed section to enter an integrity agreement at any time where there is no sports controlling body for the sporting event or at any time during the 6 months immediately following the prescription of a person or body as the sports controlling body for the sporting event.
14. Proposed section 19 creates an offence (maximum penalty of \$11,000 for a corporation or \$5,500 or imprisonment for 12 months (or both) for an individual) if a bookmaker accepts or makes a bet on a declared betting event unless the bookmaker is licensed and holds a declared betting event authority and the bet is accepted or made in accordance with the conditions to which the authority is subject. The proposed section also permits the Minister to grant such an authority to a licensed bookmaker on the application of the bookmaker.
15. Proposed section 20 provides for the conditions to which a declared betting event authority is subject.

16. Schedule 1 [2] inserts a number of definitions for the purposes of the key provisions and omits some redundant definitions. Schedule 1 [3]–[6], [8]–[14], [16] and [20] make amendments consequential on the key provisions being inserted into the principal Act.
17. Schedule 1 [15] updates a heading to a Part to better reflect the matters with which the Part is concerned.
18. Schedule 1 [17] corrects a reference to ensure that the terminology used in a section is consistent.
19. Schedule 1 [18], [19] and [21] make amendments consequential on the key provisions being inserted into the principal Act and also update terminology in Part 4 of the principal Act to ensure that the terminology in that Part is consistent with terminology used in the key provisions.
20. Schedule 1 [22] permits regulations under the principal Act to contain provisions of a savings or transitional nature consequent on the enactment of the principal Act or any Act that amends the principal Act (including the proposed Act).
21. Schedule 1 [23] inserts a number of savings and transitional provisions into the principal Act consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

22. Schedule 2.1 [1] and [2] amend the Greyhound Racing Act 2009 as a consequence of the key provisions being inserted into the principal Act.
23. Schedule 2.1 [3] permits regulations under the Greyhound Racing Act 2009 to contain provisions of a savings or transitional nature consequent on the enactment of that Act or any Act that amends that Act (including the proposed Act).
24. Schedule 2.2 [1] and [2] amend the Harness Racing Act 2009 as a consequence of the key provisions being inserted into the principal Act.
25. Schedule 2.2 [3] permits regulations under the Harness Racing Act 2009 to contain provisions of a savings or transitional nature consequent on the enactment of that Act or any Act that amends that Act (including the proposed Act).
26. Schedule 2.3 [1] and [2] amend the Thoroughbred Racing Act 1996 as a consequence of the key provisions being inserted into the principal Act.
27. Schedule 2.3 [3] permits regulations under the Thoroughbred Racing Act 1996 to contain provisions of a savings or transitional nature consequent on the enactment of that Act or any Act that amends that Act (including the proposed Act).
28. Schedule 2.4 [1], [2] and [5] amend the Unlawful Gambling Act 1998 as a consequence of the change of name of the principal Act made by Schedule 1 [1].
29. Schedule 2.4 [3], [4] and [6] amend the Unlawful Gambling Act 1998 as a consequence of the key provisions being inserted into the principal Act.

30. Schedule 2.4 [7] permits regulations under the Unlawful Gambling Act 1998 to contain provisions of a savings or transitional nature consequent on the enactment of that Act or any Act that amends that Act (including the proposed Act).

ISSUES CONSIDERED BY COMMITTEE

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

New Offences and Penalties

31. The Bill introduces new offences and penalties. For example, proposed section 18C of the Bill creates an offence with a maximum penalty of \$11,000 for a corporation or \$5,500 or imprisonment for 12 months or both for an individual if a betting service provider offers a betting service in relation to a sporting event unless the betting service provider is a licensed betting service provider and has entered an integrity agreement with the sports controlling body for the sporting event.

The Committee notes that the Bill introduces new offences and penalties including a \$5,500 fine or imprisonment for 12 months, or both, for offering a betting service in relation to a sporting event without an integrity agreement being in place. Nonetheless, this penalty aligns with penalties for similar offences under the *Racing Administration Act 1998* and the *Unlawful Gambling Act 2009*; and the provisions further the intention of the Bill which is to ensure sport is played honestly and fairly; and that sporting events on which punters wager money are openly contested and free of manipulation. In the circumstances, the Committee makes no further comment.

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

Commencement by Proclamation

32. Clause 2 of the Bill provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

The Committee prefers legislation of this kind, which may impact on personal rights and liberties, to commence on a fixed date or on assent.

5. TAFE Changes Moratorium (Secure Future for Public Provision of Vocational Education and Training) Bill 2014*

Date introduced	20 March 2014
House introduced	Legislative Council
Minister responsible	Dr John Kaye MLC
Portfolio	N/A

PURPOSE AND DESCRIPTION

1. The objects of this Bill are:
 - (a) to freeze fees for TAFE courses, and funding to private providers of vocational education and training, at 2010 levels, and
 - (b) to maintain funding to the TAFE Commission at no less than its 2010–2011 level, and
 - (c) to require the Minister to ensure that the TAFE Commission is the principal provider of technical and further education in New South Wales.

BACKGROUND

2. The Bill seeks to take fees for TAFE courses and funding for private providers back to the 2010 level and to freeze them at that level. It also seeks to ensure that funding for TAFE is taken to its 2010-2011 level.
3. Dr Kaye's Second Reading Speech notes that budget cuts of more than \$800 million in the forward estimates are seeing 800 jobs disappear from TAFE and that 395 jobs disappeared from TAFE in 2013. He comments that if TAFE was still funded in 2010 at the same level per student, adjusted for inflation, as it was in 1997, there would be an additional \$962 million in its budget each year.

OUTLINE OF PROVISIONS

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.
6. Clause 3 provides that words and expressions used in the proposed Act have the same meaning as in the *Technical and Further Education Commission Act 1990*.
7. Clause 4 freezes, at 2010 levels with adjustments for inflation, fees for TAFE courses undertaken during 2014 and subsequently.

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8. Clause 5 freezes, at 2010–2011 levels with adjustments for inflation, funding for private providers of vocational education and training.
9. Clause 6 provides that it is the intention of Parliament that funding to the TAFE Commission is maintained at no less than its 2010–2011 level, with adjustments for inflation.
10. Clause 7 requires the Minister to ensure that the TAFE Commission is the principal provider of technical and further education in New South Wales. In doing so, any government policy that is likely to increase competition with the TAFE Commission in the provision of vocational education and training is not to proceed.

ISSUES CONSIDERED BY COMMITTEE

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

6. Universities Legislation Amendment (Regulatory Reforms) Bill 2014

Date introduced	19 March 2014
House introduced	Legislative Assembly
Minister responsible	The Hon Adrian Piccolo MP
Portfolio	Education

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend various Acts establishing universities (the University Acts) to remove certain regulatory requirements relating to financial management, land dealings and governing body election procedures of the universities and to put beyond doubt the capacity of the universities to generate revenue to fund the objects and principal functions of the university. In relation to each university:
 - (a) the requirement for the Governor on the recommendation of the Treasurer to approve borrowings by the university is removed, and
 - (b) the requirement for the Minister for Education with the concurrence of the Treasurer to approve university investment powers is removed, and
 - (c) the university is specifically authorised to generate revenue for the purpose of funding the promotion of its object and the carrying out of its principal functions, and
 - (d) the requirement for the Treasurer on the recommendation of the Minister for Education to approve fund managers is removed, and
 - (e) the requirement for the Minister for Education on the advice of the Treasurer to approve guidelines for commercial activities carried on by the university is removed, and
 - (f) the requirement for the Minister for Education to approve the sale, encumbrance or lease for more than 21 years of university land is removed and is replaced with a requirement for such approval where the land concerned was granted, transferred or sold at nominal or less than market value to the university by the State or is the lease of any land acquired from the State for a term of more than 21 years, and
 - (g) the limitation preventing the university from leasing certain land vested in the Crown which is under the university's control and management for more than 21 years is removed and replaced with a requirement permitting leases for more than 21 years with the approval of the Minister for Education, and

- (h) the university is empowered to delegate to the governing body of the university the power to make rules concerning procedures for elections to that body instead of them being prescribed by the by-laws.
2. The Bill also:
- (i) amends the University of Wollongong Act 1989:
- i to remove references to the “Convocation” of the University (Schedule 1.10 [1], [3] and [13]), and
 - ii to enable the Vice-Chancellor of the University to sub-delegate functions delegated to the Vice-Chancellor by the Council of the University (Schedule 1.10 [5]), and
- (j) makes a consequential amendment to omit Part 11 (Convocation) of the University of Wollongong By-law 2005 (Schedule 1.11), and
- (k) amends the University of Newcastle Act 1989:
- i to formally include the President of the Academic Senate as a member and chair of the Academic Senate of the University (Schedule 1.6 [2]), and
 - ii to enable the Vice-Chancellor of the University to sub-delegate functions delegated to the Vice-Chancellor by the Council of the University (Schedule 1.6 [4]), and
- (l) amends the Macquarie University Act 1989 to correct a cross-reference (Schedule 1.2 [14]), and
- (m) amends each University Act to make amendments of a consequential or savings nature.

BACKGROUND

3. In 2011, the Government introduced the *Universities Governing Bodies Act 2011* which commenced a process of updating legislation governing universities. This Bill continues that process by reducing the amount of regulation regarding financial management, land dealings and governing body election procedures. The amendments follow a review of State university regulation and consultation with universities led by the New South Wales Vice-Chancellors Committee.

OUTLINE OF PROVISIONS

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Acts and by-law

6. Schedule 1 amends the University Acts and a by-law as described in the Overview of the Bill.

7. Schedule 1.1 [2], 1.2 [2], 1.3 [2], 1.4 [2], 1.5 [2], 1.6 [3], 1.7 [2], 1.8 [2], 1.9 [2] and 1.10 [4] amend the University Acts to achieve the object described in paragraph (a) of the Overview of the Bill.
8. Schedule 1.1 [15], 1.2 [15], 1.3 [14], 1.4 [14], 1.5 [14], 1.6 [17], 1.7 [14], 1.8 [15], 1.9 [14] and 1.10 [18] amend the University Acts to achieve the object described in paragraph (b) of the Overview of the Bill.
9. Schedule 1.1 [1], 1.2 [1], 1.3 [1], 1.4 [1], 1.5 [1], 1.6 [1], 1.7 [1], 1.8 [1], 1.9 [1] and 1.10 [2] amend the University Acts to achieve the object described in paragraph (c) of the Overview of the Bill.
10. Schedule 1.1 [16], 1.2 [16], 1.3 [15], 1.4 [15], 1.5 [15], 1.6 [18], 1.7 [15], 1.8 [16], 1.9 [15] and 1.10 [19] amend the University Acts to achieve the object described in paragraph (d) of the Overview of the Bill.
11. Schedule 1.1 [8]–[10], 1.2 [7]–[9], 1.3 [7]–[9], 1.4 [7]–[9], 1.5 [7]–[9], 1.6 [10]–[12], 1.7 [7]–[9], 1.8 [8]–[10], 1.9 [7]–[9] and 1.10 [10]–[12] amend the University Acts to achieve the object described in paragraph (e) of the Overview of the Bill and make consequential amendments.
12. Schedule 1.1 [3]–[5], 1.2 [3]–[5], 1.3 [3]–[5], 1.4 [3]–[5], 1.5 [3]–[5], 1.6 [5]–[7], 1.7 [3]–[5], 1.8 [3]–[5], 1.9 [3]–[5] and 1.10 [6]–[8] amend the University Acts to achieve the object described in paragraph (f) of the Overview of the Bill and make consequential amendments.
13. Schedule 1.1 [6] and [7], 1.2 [6], 1.3 [6], 1.4 [6], 1.5 [6], 1.6 [8] and [9], 1.7 [6], 1.8 [6] and [7], 1.9 [6] and 1.10 [9] amend the University Acts to achieve the object described in paragraph (g) of the Overview of the Bill and make consequential amendments.
14. Schedule 1.1 [11]–[14], 1.2 [10]–[13], 1.3 [10]–[13], 1.4 [10]–[13], 1.5 [10]–[13], 1.6 [13]–[16], 1.7 [10]–[13], 1.8 [11]–[14], 1.9 [10]–[13] and 1.10 [14]–[17] amend the University Acts to achieve the object described in paragraph (h) of the Overview of the Bill and make consequential amendments.
15. Schedule 1.1 [17] and [18], 1.2 [17] and [18], 1.3 [16] and [17], 1.4 [16] and [17], 1.5 [16] and [17], 1.6 [19] and [20], 1.7 [16] and [17], 1.8 [17] and [18], 1.9 [16] and [17] and 1.10 [20] and [21] amend the University Acts to insert savings and transitional provisions.

ISSUES CONSIDERED BY COMMITTEE

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

Part Two – Regulations

The Committee does not report on any Regulations in this Digest.

Appendix One – Index of Ministerial Correspondence on Bills

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

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

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