



Legislation Review Committee

LEGISLATION REVIEW DIGEST

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

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Membership

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Functions of the Committee

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

8A Functions with respect to Bills

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

9 Functions with respect to Regulations

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

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

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

Guide to the Digest

COMMENT ON BILLS

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

Ministerial Correspondence – Bills previously considered

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

COMMENT ON REGULATIONS

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

Regulations for the special attention of Parliament

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

Regulations about which the Committee is seeking further information

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

Copies of Correspondence on Regulations

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

APPENDIX 1: INDEX OF MINISTERIAL CORRESPONDENCE ON BILLS

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

APPENDIX 2: INDEX OF CORRESPONDENCE ON REGULATIONS REPORTED ON

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

Conclusions

PART ONE - BILLS

1. BAPTIST CHURCHES OF NEW SOUTH WALES PROPERTY TRUST AMENDMENT BILL 2013

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

2. CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT (INFORMATION SHARING) BILL 2013

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

Privacy

The Committee notes that the proposed information sharing scheme contains some safeguards such as prescribing the circumstances in which information can be shared; limiting the kinds of government agencies and non-government organisations that can share information under the scheme; and requiring the Attorney-General to seek the Privacy Commissioner's advice when making domestic violence information management protocols.

Nevertheless, the Committee refers to Parliament whether the amendments proposed by the Bill unduly trespass on an individual's right to privacy.

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

Commencement by proclamation

The Committee notes that the Bill facilitates alleged victims of domestic violence accessing appropriate support services. In these circumstances, the Committee makes no further comment on the commencement of the Bill by proclamation.

3. LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) AMENDMENT BILL 2013

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

4. ROAD TRANSPORT AMENDMENT (OBSTRUCTION AND HAZARD SAFETY) BILL 2013

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

5. SERVICE NSW (ONE-STOP ACCESS TO GOVERNMENT SERVICES) BILL 2013

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

Privacy

The Committee notes that providing for information sharing in the regulations may expose individuals to breaches of privacy not identified in the principal legislation. However, as the

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Minister is not to make such regulations without first consulting with the Privacy Commissioner, the Committee makes no further comment on this issue.

PART TWO - REGULATIONS

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

Part One - Bills

1. Baptist Churches of New South Wales Property Trust Amendment Bill 2013

Date introduced	27 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Greg Smith SC MP
Portfolio	Attorney General and Justice

PURPOSE AND DESCRIPTION

1. The object of this Bill is to change the way in which the Baptist Churches of New South Wales Property Trust (the Trust) deals with property that it holds on trust for congregations, including as follows:
 - (a) by allowing the secretary of a congregation to give the Trust directions on behalf of the congregation in relation to certain minor matters relating to the repair or alteration of buildings, rather than going through the formal procedure of holding a meeting of the congregation;
 - (b) by expanding the qualifications of directors or officers of certain corporations that will allow those corporations to qualify to benefit from Trust decisions;
 - (c) by requiring small congregations to be consulted when the Baptist Union temporarily exercises functions relating to trust property held on trust for them;
 - (d) by permitting a degree of Baptist Union oversight of small congregations when such congregations give directions to the Trust about trust property;
 - (e) by requiring that when a congregation votes to give a direction to the Trust, as well as the current requirement that at least 75% majority vote in favour of the direction, at least 10 persons must vote in favour of it.

BACKGROUND

2. There are 330 Baptist churches in New South Wales and the ACT. A large number of these churches have voluntarily linked together to form the Baptist Union. Being part of the Baptist Union provides individual congregations with the benefits of being part of a larger organisation, while at the same time individual congregations continue to manage their own affairs.
3. The Baptist Union of New South Wales is incorporated through a New South Wales statute – the *Baptist Union Incorporation Act 1919*. Amongst other things, this Act gives the Baptist Union the power to hold property. In 1984, the *Baptist Churches of New South Wales Property Trust Act* was enacted. That Act established an incorporated

trustee and vested land previously held on trust by the Baptist Union in the new corporate trustee.

4. The Baptist Union formally requested amendment to the Act in 2012 after an extensive consultation period with the Baptist church community. The amendments do not represent major changes to the Act, but they will help the property trust to manage trust property on behalf of congregants.

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 [5] replaces a provision which currently requires that directors or officers of a corporation that benefits from the use of trust property as security for a loan must be members of the congregation for which the Trust holds the property on trust. The amendment provides that any “qualifying corporation” may benefit from the loan. Qualifying corporation is defined by the amendment made by Schedule 1 [8] so as to include corporations whose directors or officers are not members of the congregation that gives the direction but are members of another congregation affiliated with the Baptist Union or are committed evangelicals. Schedule 1 [6] replaces a provision which limits the corporations that can benefit from the Trust investing in or dealing with trust property that is not land, so as to extend it to “qualifying corporations”. The effect of the amendment and the new definition will be to allow trust property that is not land to be invested, disposed of or otherwise dealt with for purposes that are for the benefit of a corporation that has directors or officers who are either members of the congregation giving the direction to the Trust to invest in or deal with property or who are not members of that congregation, but are members of another congregation affiliated with the Baptist Union or are committed evangelicals. Directions on minor building matters can be given to Trust on behalf of a congregation.
8. Schedule 1 [7] simplifies the administrative arrangements involved in a congregation directing the Trust in relation to certain minor matters about the repair or alteration of church buildings, schools or manses on property held on trust for a congregation. The amendment provides that, in relation to those minor matters, the secretary of the relevant congregation can give a direction on behalf of the congregation without the need for the formal procedure of holding a meeting of the congregation. directions may be given on behalf of a congregation. Baptist Union’s dealings with trust property held for dissolved congregations or congregations with less than 10 members.
9. Schedule 1 [11] sets out the powers that the Baptist Union has if, while any trust property situated in a district is vested in the Trust, a congregation in the district is dissolved or consists of less than 10 members. The proposed new section 29 restates, without any change in substance, what happens when the congregation is dissolved or dispersed. However, proposed section 29AA includes an additional requirement that the Baptist Union, in exercising all of the functions with respect to trust property that the Act gives it when the remaining membership of a congregation falls below 10 members, must consult the congregation’s members, if any remain, before giving any direction to

the Trust concerning property held on trust for the congregation. Directions of small congregations require Executive Committee consent.

10. Schedule 1 [12] provides that, where a congregation's membership is between 10 and 20 members, a resolution in favour of giving a direction to the Trust has effect only if the Executive Committee of the Baptist Union has consented to the direction being given.
11. Schedule 1 [13] amends a provision about voting at meetings of congregations for the purposes of giving directions to the Trust. As well as requiring a majority of not less than 75% of the votes of members over 18 who are present, a vote will only be passed if it is passed by at least 10 persons.
12. Schedule 1 [1], [3], [4] and [10] clarify those provisions in which the term "church" is intended to refer to a church building and not a congregation.
13. Schedule 1 [2] inserts definitions of deacon and secretary of a congregation, so as to clarify that they include references to persons holding substantially similar positions, but with a different title. A definition of district is also inserted. (Section 35 (3) (b) of the Act provides for the Executive Committee of the Baptist Union to determine the boundaries of a district.)
14. Schedule 1 [15] omits a provision that refers to a repealed provision about voting and
15. Schedule 1 [14] omits a cross-reference to the provision being omitted.

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.

2. Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2013

Date introduced	27 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Greg Smith, SC MP
Portfolio	Attorney General and Minister for Justice

PURPOSE AND DESCRIPTION

1. The object of this Bill is to permit the exchange of personal information and health information about alleged victims (*primary persons*) and alleged perpetrators of domestic violence. In particular:
 - (a) an agency that provides domestic violence support services (a *support agency*) may collect such information, without the consent of those persons if the information is lawfully disclosed to it by the NSW Police Force, or is disclosed to it by the primary person or, with the consent of the primary person, by another support agency or a non-government support service, and
 - (b) a support agency may, with the consent of the primary person, use the information it has collected to provide domestic violence support services to the primary person, and
 - (c) a support agency may disclose the information it has collected to another support agency or non-government support service if the primary person consents and the primary person has been referred to a support agency or non-government support service by the NSW Police Force and the disclosure is necessary for the provision of domestic violence support services to the person, and
 - (d) any such collection, use or disclosure in paragraphs (a)–(c) may be done only if the agency complies with protocols made by the Attorney General, and
 - (e) an agency may collect, use or disclose personal information or health information at any time in domestic violence cases if it reasonably believes it is necessary to do so to prevent or lessen a serious threat to the life, health or safety of a person.

BACKGROUND

2. The aim of the Bill is to allow information sharing between certain public sector agencies and non-government organisations to assist alleged victims of domestic violence with accessing appropriate support services.
3. The amendments proposed by the Bill are a key part of implementing the NSW Government's Domestic Violence Justice Strategy, which aims to make the criminal

justice system more responsive to the immediate needs of those experiencing domestic violence.

4. In 2011, the Auditor-General carried out a performance audit of government agencies' responses to domestic and family violence. The audit identified a number of issues including a lack of a coordinated response by government agencies resulting from inconsistent approaches to information sharing in domestic violence cases. The audit also found that not many victims were being referred to support services because there was no common referral approach.
5. Other issues identified by the Auditor-General include the following:
 - (a) At the time of a domestic violence incident, many victims are not in a position to provide informed consent to NSW Police to enable them to be referred to appropriate support services. Victims would also prefer to consent to receiving support services if the service itself requested their consent, rather than NSW Police.
 - (b) There was confusion within government agencies about procedures for requesting a victim's consent and the circumstances in which consent is not required.
 - (c) There were also no consistent procedures for safeguarding an individual's information.
6. The Bill seeks to address some of these issues.

OUTLINE OF PROVISIONS

7. Clause 1 sets out the name (also called the short title) of the proposed Act.
8. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.
9. Schedule 1 [1] inserts proposed Part 13A into the *Crimes (Domestic and Personal Violence) Act 2007*. That Part facilitates the collection, use and disclosure of personal information and health information by agencies that provide domestic violence support services (*support agencies*) and other persons and bodies that provide such services (*non-government support services*) in cases involving domestic violence.
10. Proposed section 98A sets out a number of definitions used in the proposed Part.
11. Proposed section 98B provides for what is meant by *primary person* and *associated respondent*. A primary person is a person for whose protection an apprehended domestic violence order is sought or made or a person who is alleged to be the victim of a domestic violence offence. An associated respondent is the person against whom the order is sought or made or the person who has been charged with the domestic violence offence.
12. Proposed section 98C provides for certain exceptions from the requirements of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* in cases involving domestic violence. The proposed section applies if an interim apprehended domestic violence order is made or if an apprehended domestic violence order is sought or made or if a person is charged with a domestic

violence offence. The proposed section applies to the personal information and health information of each primary person and associated respondent in relation to the order or offence.

13. A support agency may collect personal information or health information about a primary person and any associated respondent that is lawfully disclosed to it by the NSW Police Force for the purpose of the agency providing domestic violence support services to the person. A support agency may also collect such information if it is disclosed to it in accordance with the proposed section by another support agency or that is disclosed to it by the primary person or by a non-government support service (with the consent of the primary person). The support agency is not required to inform an associated respondent about its dealings with the information and it is not required to provide the associated respondent with access to the information.
14. A support agency may use the information collected under the proposed section to contact the primary person but must obtain the primary person's consent for use of the information to provide domestic violence support services to the person. The associated respondent's consent is not required for any such use.
15. A support agency must also obtain the primary person's consent for any disclosure of information collected under the proposed section (the associated respondent's consent is not required). However, even with the primary person's consent, the support agency must not disclose the information unless the primary person has been referred to a support agency or non-government support service by the NSW Police Force in respect of at least one order or charge to which the information relates. In addition, the information may be disclosed only to another support agency or to a non-government support service and only for the purposes of that other agency or service providing domestic violence support services to the primary person. Finally, any such disclosure must be reasonably necessary for the provision of those services.
16. An agency must comply with the domestic violence information management protocols if it collects, uses or discloses information under the proposed section. Proposed section 98E permits the Attorney General to make those protocols and requires that the Attorney General seek the advice of the Privacy Commissioner when making them. The protocols may also contain recommended privacy standards for non-government support services and may prohibit the disclosure of information under the proposed section to services that do not adopt those standards.
17. Proposed section 98D permits any agency to collect, use or disclose personal information or health information about a person without the consent of the person if the agency believes that the collection, use or disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of any person and the threat relates to the commission or possible commission of a domestic violence offence and it is unreasonable or impractical to obtain the consent of the person to whom the information relates.
18. Schedule 1 [2] permits regulations to be made that contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the *Crimes (Domestic and Personal Violence) Act 2007*.

ISSUES CONSIDERED BY COMMITTEE

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

Privacy

19. Schedule 1[1] of the Bill inserts a new Part 13A into the *Crimes (Domestic and Personal Violence) Act 2007*. These new provisions allow certain government agencies and non-government organisations to collect, use and disclose personal and health information of parties to domestic violence matters to provide support services to alleged victims of domestic violence and for associated purposes. The proposed provisions will have effect, despite the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

The Committee notes that the proposed information sharing scheme contains some safeguards such as prescribing the circumstances in which information can be shared; limiting the kinds of government agencies and non-government organisations that can share information under the scheme; and requiring the Attorney-General to seek the Privacy Commissioner's advice when making domestic violence information management protocols.

Nevertheless, the Committee refers to Parliament whether the amendments proposed by the Bill unduly trespass on an individual's right to privacy.

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

Commencement by proclamation

20. The Bill commences on a day or days to be appointed by proclamation.

The Committee notes that the Bill facilitates alleged victims of domestic violence accessing appropriate support services. In these circumstances, the Committee makes no further comment on the commencement of the Bill by proclamation.

3. Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013

Date introduced	26 March 2013
House introduced	Legislative Council
Minister responsible	The Hon. Michael Gallacher MLC
Portfolio	Police and Emergency Services

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Law Enforcement and National Security (Assumed Identities) Act 2010* (the principal Act) to require that applications for orders under the principal Act to make or cancel entries for assumed identities in the Births, Deaths and Marriages Register be heard in chambers.
2. The Bill also clarifies that certain intelligence agencies may apply for orders under the principal Act to have entries for assumed identities made in the Births, Deaths and Marriages Register.
3. The Bill also makes miscellaneous amendments, including the increase from four to five the number of delegations of a chief officer's functions under the Principal Act that may be in force at any one time, and updates references to certain offences.

BACKGROUND

4. This Bill implements recommendations of the *Report on the Statutory Review of the Law Enforcement and National Security (Assumed Identities) Act 2010*. The Act itself commenced on 29 September 2010 to facilitate cross-border recognition of assumed identities. The Act was based on the model laws endorsed by the then Standing Committee of Attorneys-General in 2004, with provision to allow individual jurisdictions to make non-critical variations. An assumed identity is a false identity used by an officer or other person for a period of time to investigate an offence, gather intelligence in relation to criminal activity, or administer witness protection programs.
5. The Review found that the policy objectives of the Act remain valid and no substantive amendments were required. However, four minor amendments were recommended, which will be effected by passage of this Bill.

OUTLINE OF PROVISIONS

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

8. Schedule 1 [1] requires applications for orders to make or cancel entries for assumed identities in the Births, Deaths and Marriages Register to be heard in the chambers of the Judge authorised under the principal Act to hear such applications (and not in open court).
9. Schedule 1 [2] makes it clear that the Australian Security Intelligence Organisation and the Australian Secret Intelligence Service may apply for orders under the principal Act to have entries for assumed identities made in the Births, Deaths and Marriages Register, and such entries cancelled, even though they are defined as an “intelligence agency” (rather than a “law enforcement agency”) under the corresponding law of the Commonwealth.
10. Schedule 1 [3] increases (from 4 to 5) the number of delegations of a chief officer’s functions under the principal Act that may be in force at any one time in respect of any one law enforcement agency under the Act.
11. Schedule 1 [4] and [5] update references to certain offices (in relation to the New South Wales Crime Commission and the Australian Crime Commission, respectively), the holders of which may be delegated the functions under the principal Act of the chief officer of the agency to which the office relates. Schedule 1 [6] enables savings and transitional regulations to be made as a consequence of the proposed Act or any other Act that amends the principal Act.

ISSUES CONSIDERED BY COMMITTEE

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

4. Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013

Date introduced	26 March 2013
House introduced	Legislative Council
Minister responsible	The Hon. Duncan Gay MLC
Portfolio	Minister for Roads and Ports, Deputy Leader of the Government in the Legislative Council, Leader of the House in the Legislative Council

PURPOSE AND DESCRIPTION

1. The object of the Bill is to amend the *Road Transport Act 2013* to make it clear that a court is to take into account the presence of obstructions and hazards on a road in determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public.

BACKGROUND

2. The amendments proposed by the Bill are part of the NSW Government's Breakdown Safety Strategy.
3. The Strategy was developed following the deaths of Ms Sarah Frazer and Mr Geoff Clark on the Hume Highway in February 2012. Ms Frazer's vehicle had broken down and Mr Clark had come to her assistance. A truck killed them while they were in the road shoulder, attempting to fix Ms Frazer's vehicle.
4. Between 2007 and 2011, there were 146 crashes in breakdown lanes and road shoulders across NSW, resulting in eight fatalities and 102 injuries. The Strategy is aimed at improving the safety of these parts of the road.
5. Under the current offence of negligent, furious or reckless driving, the court is required to consider all the circumstances of the case including the nature, condition and use of the road, and the amount of traffic on the road. The Bill proposes to introduce an additional consideration as to whether there were any obstructions or hazards on the road at the time of the alleged offence. This could include a range of obstacles, such as broken down or crashed vehicles, fallen loads and accident or emergency scenes.

OUTLINE OF PROVISIONS

6. Clause 1 sets out the name (also called the short title) of the proposed Act.
7. Clause 2 provides for the commencement of the proposed Act.
8. Clause 3 amends the *Road Transport Act 2013* to make it clear that a court is to take into account the presence of obstructions and hazards on a road in determining whether a

person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public.

ISSUES CONSIDERED BY COMMITTEE

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

5. Service NSW (One-Stop Access to Government Services) Bill 2013

Date introduced	26 March 2013
House introduced	Legislative Assembly
Member responsible	The Hon. Barry O'Farrell MP
Portfolio	Premier and Minister for Western Sydney

PURPOSE AND DESCRIPTION

1. The objects of this Bill are as follows:
 - (a) to enable Service NSW (by conferring functions on its Chief Executive Officer [the *CEO*]) to provide one-stop access to customer services for NSW government agencies and for other agencies or persons;
 - (b) to facilitate the provision of information by and about customers for that purpose;
 - (c) to enact consequential provisions relating to access to government information and State records.

BACKGROUND

2. The New South Wales Government is one of the biggest customer service organisations in the state. This Bill establishes an organisation, Service NSW, to provide customer services to the people of New South Wales on behalf of other agencies.
3. This initiative recognises that there are 394 separate State government agencies, authorities and trading enterprises delivering services, with more than 800 websites and 8,000 different telephone numbers.

OUTLINE OF PROVISIONS

Part 1 Preliminary

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.
6. Clause 3 defines certain words and expressions used in the proposed Act. Among other things, it defines Government agency as including State government agencies (such as the Government Service, the NSW Police Force and the NSW Health Service) as well as statutory bodies representing the Crown and councils and county councils.

Part 2 One-stop access to Government services

7. Clause 4 confers on the CEO customer service functions that are delegated to the CEO under other Acts or given to the CEO under agreements.

8. Clause 5 lists the functions that are customer service functions. They include functions relating to applications for and the issue of licences and other authorities, giving information about Government services or legislation, receiving and making payments, the provision of other Government services, acting as an agent for agencies of other Governments and persons and other ancillary functions.
9. Clause 6 enables the CEO to disclose information about a person to a Government agency other than the agency for which a customer service is being provided to the person if the person consents to that disclosure.
10. Clause 7 extends the operation of a power to delegate a customer service function that is conferred on a Government agency under another Act or an instrument so that it is taken to confer a power to also delegate that function to the CEO. That other Act or instrument will also be extended so as to authorise the CEO to sub-delegate that function.
11. Clause 8 empowers the CEO to enter into agreements with Government agencies to exercise non-statutory customer service functions of the agency concerned and with respect to the exercise of customer service functions delegated or sub-delegated to the CEO. The CEO is given the power to exercise any such function. The proposed section expressly permits the CEO, under an agreement, to exercise penalty notice functions of the State Debt Recovery Office.
12. Clause 9 empowers the CEO to exercise customer service functions delegated or sub-delegated to the CEO under legislation of the Commonwealth or another State or Territory and to sub-delegate such a function if otherwise permitted to do so. The functions must be functions prescribed by the regulations. The proposed section also empowers the CEO to enter into agreements with agencies of the Commonwealth Government, Governments of other States or Territories or Governments of other countries to exercise customer service functions of the agency concerned. The CEO is given the power to exercise any such function.
13. Clause 10 empowers the CEO to enter into agreements with non-government entities to exercise customer service functions of the entities concerned. The CEO is given the power to exercise any such function.
14. Clause 11 enables the CEO to collect, maintain and use records of information about customer transactions and preferences and other information about customers for whom services are provided for the internal administrative purposes of Service NSW, including for the purposes of its interactions with those customers.
15. Clause 12 empowers the CEO to appoint persons to act as agents for the CEO for the provision of customer service functions.

Part 3 Privacy and access to and disclosure of information

16. Clause 13 defines service agency, for the purposes of the proposed Part, to mean a Government agency and any other agency or person for whom the CEO is exercising customer service functions.
17. Clause 14 authorises the CEO to disclose information that is obtained while exercising customer service functions to the relevant Government agency, the customer, any

person to whom the Government agency may disclose the information or other persons or classes of persons prescribed by the regulations. A Government agency is authorised to disclose information to the CEO for customer service function purposes and also for purposes related to certain statutory obligations. The CEO may also disclose information obtained in connection with the exercise of customer service functions for a service agency (other than a Government agency).

18. The disclosure of information by and to the CEO for the purpose of updating, with consent, a person's information is also authorised. The use of the information for the purpose for which it is disclosed is also authorised. The purpose of the proposed section is to overcome restrictions contained in other Acts on the disclosure and use of the information.
19. Clause 15 modifies the application of one of the information protection principles under the Privacy and Personal Information Protection Act 1998 to the CEO. The CEO will be permitted to give a general notice alerting a customer to information provided by the service agency about the collection of personal or health information instead of having to give the customer the more detailed information that would otherwise be required when collecting information for customer service purposes. In the case of collecting information for updating purposes or for internal records purposes, the CEO will be permitted to give a general notice that refers to information on the Service NSW website or held at the relevant service centre.
20. Clause 16 enables a delegation or sub-delegation, or an agreement, that confers customer service functions on the CEO to also provide for the CEO to exercise, and for the CEO to exercise, associated statutory functions relating to access to government information and State records. Any such delegation, sub-delegation or agreement may also authorise a Government agency to exercise such functions for the CEO.
21. Clause 17 makes it clear that the proposed Act does not restrict or prevent any other lawful collection, disclosure or use of information.

Part 4 Miscellaneous

22. Clause 18 enables the CEO to delegate functions under the proposed Act.
23. Clause 19 enables a Government agency to transfer assets, rights or liabilities to the Crown if the transfer is for the purpose of enabling the CEO to exercise customer service functions for the Government agency. Such a transfer must be consented to by the Minister administering the proposed Act and the Minister responsible for the Government agency. The proposed section also contains provisions relating to the operation and effect of any such transfer, including a provision providing that the transfer does not constitute a breach of any contractual provision.
24. Clause 20 exempts the CEO, a member of staff of Service NSW, or a person acting under the direction of the CEO or such a member of staff, from personal liability for acts or omissions done or omitted to be done in good faith for the purposes of executing the proposed Act. Any such liability will instead attach to the Crown.
25. Clause 21 enables the Governor to make regulations for the purposes of the proposed Act.

26. Clause 22 provides for the review of the proposed Act after 5 years from the date of assent to the proposed Act.

Schedule 1 Savings, transitional and other provisions

27. Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Acts and instrument

28. Schedule 2 amends the Acts and instrument specified in the Schedule.

ISSUES CONSIDERED BY COMMITTEE

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

Privacy

29. Service NSW will perform customer service tasks on behalf of government agencies. The Committee does not consider sharing information between Service NSW and the relevant agency to breach privacy principles. However, the Bill provides at clause 14(e) that Service NSW can share with any person, agency or class prescribed in the regulations.

The Committee notes that providing for information sharing in the regulations may expose individuals to breaches of privacy not identified in the principal legislation. However, as the Minister is not to make such regulations without first consulting with the Privacy Commissioner, the Committee makes no further comment on this issue.

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.