

PARLIAMENT OF NEW SOUTH WALES



# **Legislation Review Committee**

## LEGISLATION REVIEW DIGEST

---

No 17 of 2006

---

21 November 2006

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 Legislative Assembly. [Sydney, NSW] : The Committee, 2006, 43 p; 30cm

Chair: Mr Allan Shearan MP

21 November 2006

ISSN 1448-6954

1. Legislation Review Committee—New South Wales
2. Legislation Review Digest No. 17 of 2006

I Title.

II Series: New South Wales. Parliament. Legislative Assembly. Legislation Review Committee Digest; No. 17 of 2006

## TABLE OF CONTENTS

|   |           |
|---|-----------|
| Membership & Staff.....   | ii        |
| Functions of the Legislation Review Committee.....  | iii       |
| Guide to the <i>Legislation Review Digest</i> .....   | iv        |
| Summary of Conclusions.....   | vi        |
| <b>Part One – Bills.....</b>  | <b>1</b>  |
| <b>SECTION A: Comment on Bills.....</b>   | <b>1</b>  |
| 1. Avalon Police Station (Public Ownership) Bill 2006* .....  | 1         |
| 2. Parliamentary Contributory Superannuation Amendment<br>(Criminal Charges and Convictions) Bill 2006..... | 3         |
| 3. Parliamentary Electorates and Elections Amendment<br>(Child Sexual Offences Disclosures) Bill .....      | 6         |
| 4. Police Powers Legislation Amendment Bill 2006 .....  | 8         |
| 5. Registered Clubs Amendment Bill 2006.....  | 10        |
| 6. Road Transport Legislation Amendment (Evidence) Bill 2006.....   | 11        |
| 7. Sale of Goods and Warehousemen’s Liens Amendment (Bulk Goods) Bill 2006* .....                           | 14        |
| 8. Statute Law (Miscellaneous Provisions) Bill 2006 .....   | 16        |
| 9. Victims Support and Rehabilitation Amendment Bill 2006.....  | 17        |
| 10. World Youth Day Bill 2006 .....   | 20        |
| <b>Part Two – Regulations .....</b>   | <b>21</b> |
| <b>SECTION A: Regulations about which the Committee is Seeking Further Information.....</b>                 | <b>21</b> |
| Appendix 1: Index of Bills Reported on in 2006.....   | 23        |
| Appendix 2: Index of Ministerial Correspondence on Bills .....  | 28        |
| Appendix 3: Bills that received comments under s 8A of the Legislation Review Act in 2006.....              | 30        |
| Appendix 4: Index of correspondence on regulations reported on in 2006.....                                 | 33        |
| * Denotes Private Member’s Bill   |           |

## MEMBERSHIP & STAFF

### Chair

**Allan Shearan MP, Member for Londonderry**

### Vice Chair

**Virginia Judge MP, Member for Strathfield**

### Members

**Shelley Hancock MP, Member for South Coast**

**Robyn Parker MLC**

**Paul Pearce MP, Member for Coogee**

**Penny Sharpe MLC**

**Russell Turner MP, Member for Orange**

**Peter Wong MLC**

### Staff

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

### Panel of Legal Advisers

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

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

### Contact Details

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

### Telephone

### Facsimile

### Email

### URL

02 9230 3418  
02 9230 3052  
[legislation.review@parliament.nsw.gov.au](mailto:legislation.review@parliament.nsw.gov.au)  
[www.parliament.nsw.gov.au/lrc/digests](http://www.parliament.nsw.gov.au/lrc/digests)

## FUNCTIONS OF THE LEGISLATION REVIEW COMMITTEE

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

### 8A Functions with respect to Bills

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

### 9 Functions with respect to Regulations:

- (1) The functions of the Committee with respect to regulations are:
  - (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament,
  - (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
    - (i) that the regulation trespasses unduly on personal rights and liberties,
    - (ii) that the regulation may have an adverse impact on the business community,
    - (iii) that the regulation may not have been within the general objects of the legislation under which it was made,
    - (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made,
    - (v) that the objective of the regulation could have been achieved by alternative and more effective means,
    - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
    - (vii) that the form or intention of the regulation calls for elucidation, or
    - (viii) that any of the requirements of sections 4, 5 and 6 of the Subordinate Legislation Act 1989, or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
  - (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.
- (2) Further functions of the Committee are:
  - (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
  - (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.
- (3) The functions of the Committee do not include an examination of, inquiry into or report on a matter of Government policy, except in so far as such an examination may be necessary to ascertain whether any regulations implement Government policy or the matter has been specifically referred to the Committee under subsection (2) (b) by a Minister of the Crown.

## **GUIDE TO THE *LEGISLATION REVIEW DIGEST***

### **Part One – Bills**

#### **Section A: Comment on Bills**

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

#### **Section B: Ministerial correspondence – Bills previously considered**

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

### **Part Two – Regulations**

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

#### **Regulations for the special attention of Parliament**

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

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

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

#### **Copies of Correspondence on Regulations**

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

## **Appendix 1: Index of Bills Reported on in 2005**

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

## **Appendix 2: Index of Ministerial Correspondence on Bills for 2005**

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

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

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

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

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

## SUMMARY OF CONCLUSIONS

### SECTION A: Comment on Bills

#### 1. Avalon Police Station (Public Ownership) Bill 2006\*

##### Retrospectivity: revocation of s 75B declaration under proposed s 7(3)

7. The Committee will always be concerned to identify the retrospective effects of legislation which may impact adversely on any person.
8. The Committee notes that legislatively revoking a declaration duly made under the law trespasses upon a person's right to order his or her affairs in accordance with the current law.
9. The Committee refers to Parliament the question of whether providing for the revocation of any declaration under s 75B of the *Environmental Planning and Assessment Act 1979* in relation to the site unduly trespasses on personal rights and liberties.

#### 2. Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006

##### Retrospectivity: Schedule 1[11]

6. The Committee will always be concerned to identify the retrospective effects of legislation which may adversely impact on any person.
7. The Committee notes that the Bill suspends, and on conviction removes, an entitlement that, but for the retrospective operation of the Bill, would have flowed to a person who ceased to be a member of Parliament at a time when criminal proceedings were pending.
8. The Committee refers to Parliament the question of whether this retrospective operation trespasses unduly on personal rights and liberties.

##### Rule of Law

11. The Committee notes that, although this Bill was drafted in response to an individual case, it is not limited in operation to one individual. The Committee is of the view that, for this reason, the Bill is not an *ad hominem* law and, on balance, does not unduly trespass on this fundamental Rule of Law principle.

##### Presumption of Innocence

15. The Committee notes the fundamental right of everyone to be presumed innocent until proved guilty beyond reasonable doubt.



16. The Committee also notes that under the Bill, a person will suffer financial detriment *before* his or her guilt has been established beyond reasonable doubt and, therefore, the Bill trespasses on a fundamental personal right.
17. The Committee further notes that the Bill only suspends a person's pension entitlement pending a final determination of their innocence or guilt and that it provides for the Trustees of the Parliamentary Contributory Superannuation Fund to authorise an advance from superannuation to the member during the period of their suspension.
18. The Committee is of the view that, having regard to these matters, the trespass on a person's right to be presumed innocent is not undue.

### **3. Parliamentary Electorates and Elections Amendment (Child Sexual Offences Disclosures) Bill**

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

### **4. Police Powers Legislation Amendment Bill 2006**

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

### **5. Registered Clubs Amendment Bill 2006**

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

### **6. Road Transport Legislation Amendment (Evidence) Bill 2006**

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

### **7. Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Bill 2006\***

8. The Committee did not identify any issues arising under s 8A(1)(b) of the *Legislation Review Act 1989*.

### **8. Statute Law (Miscellaneous Provisions) Bill 2006**

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

## **9. Victims Support and Rehabilitation Amendment Bill 2006**

- |  |
|--|
| 11. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
|--|

## **10. World Youth Day Bill 2006**

- |   |
|---|
| 2. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
|---|

## Part One – Bills

### SECTION A: COMMENT ON BILLS

# 1. AVALON POLICE STATION (PUBLIC OWNERSHIP) BILL 2006\*

Date Introduced: 16 November 2006  
House Introduced: Legislative Assembly  
Member Responsible: Mr Alex McTaggart MP

### Purpose and Description

1. The Bill's objects are to:
  - (a) ensure that the Avalon police station site [the site] remains in public ownership;<sup>1</sup> and
  - (b) limit the use of the site to police and emergency services.

### Background

2. Avalon Police Station is no longer an operational station, and the Bill is a response to concerns that the site will be sold for development.<sup>2</sup>

### The Bill

3. The Bill prohibits the sale, transfer, lease or other alienation of the site, other than to a statutory body representing the Crown under the direction and control of a Minister [proposed s 5].
4. The site may only be developed for police or emergency services, despite any other Act or any environmental planning instrument [proposed s 6].
5. The Bill provides that a declaration may not be made under s 75B of the *Environmental Planning and Assessment Act 1979* that Part 3A of that Act applies [proposed s 7].<sup>3</sup>

---

<sup>1</sup> Namely, the land comprising Lot 76, DP 9151 and known as 75 Avalon Parade, Avalon, and includes all buildings and other fixtures situated on that land.

<sup>2</sup> See Mr A J McTaggart MP, Legislative Assembly *Hansard*, 17 November 2006.

<sup>3</sup> Section 75B provides for development which is major infrastructure or other development.

## Issues Considered by the Committee

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

#### Retrospectivity: revocation of s 75B declaration under proposed s 7(3)

6. The Bill provides that any declaration under s 75B in relation to the site made before the commencement of the Bill is revoked [proposed s 7(3)]. Such a revocation could cause losses to persons who have taken action in reliance on any such declaration, or on decisions consequential to the declaration.

**7. The Committee will always be concerned to identify the retrospective effects of legislation which may impact adversely on any person.**

**8. The Committee notes that legislatively revoking a declaration duly made under the law trespasses upon a person's right to order his or her affairs in accordance with the current law.**

**9. The Committee refers to Parliament the question of whether providing for the revocation of any declaration under s 75B of the *Environmental Planning and Assessment Act 1979* in relation to the site unduly trespasses on personal rights and liberties.**

*The Committee makes no further comment on this Bill.*

## 2. PARLIAMENTARY CONTRIBUTORY SUPERANNUATION AMENDMENT (CRIMINAL CHARGES AND CONVICTIONS) BILL 2006

|                       |                              |
|-----------------------|------------------------------|
| Date Introduced:      | 16 November 2006             |
| House Introduced:     | Legislative Assembly         |
| Minister Responsible: | The Hon John Della Bosca MLC |
| Portfolio:            | Finance                      |

Pursuant to a suspension of Standing Orders, the Bill passed all stages in the Legislative Assembly on 16 November 2006 and in the Legislative Council on 16 November 2006.

### Purpose and Description

1. At present, a member of Parliament vacates his or her seat if the member is convicted of an offence punishable by life or imprisonment for 5 years or more, or of an infamous crime [s 13A of the *Constitution Act 1902*]. In that case, s 19(8) of the *Parliamentary Contributory Superannuation Act 1971* disqualifies the former member from receiving any pension to which the former member would have been entitled under that Act, and provides instead for a refund of the member's superannuation contributions.
2. The object of this Bill is to amend the *Parliamentary Contributory Superannuation Act 1971* to provide the same disqualification from receiving a pension if the person ceases to be a member while relevant serious offence proceedings are pending and is later convicted. In addition, the former member's pension under that Act is suspended while any such criminal proceedings are pending, but the suspension is lifted if the proceedings do not lead to a conviction for the offence.
3. The Bill will apply to a person who ceased to be a member before the commencement of the proposed Act, but only if criminal proceedings were pending against the person on the commencement of the proposed Act.

### Issues Considered by the Committee

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

4. The Bill may be considered to trespass on personal rights and liberties in three respects.

#### Retrospectivity: Schedule 1[11]

5. This clause provides that the pension suspension or disqualification rules introduced by the Bill apply to a person who ceased to be a member of Parliament *before* the commencement of the Bill. In this respect the Bill may be considered to be

inconsistent with the common law presumption against retrospectivity. The presumption is strongest in the case of retroactive criminal legislation – ie legislation that renders criminal, conduct undertaken prior to the coming into force of the statute. The Bill does not create a retroactive offence. It does, however, suspend an entitlement that, but for the retrospective operation of the Bill, would have flowed to a person who ceased to be a member of Parliament at a time when criminal proceedings were pending.

- 6. The Committee will always be concerned to identify the retrospective effects of legislation which may adversely impact on any person.**
- 7. The Committee notes that the Bill suspends, and on conviction removes, an entitlement that, but for the retrospective operation of the Bill, would have flowed to a person who ceased to be a member of Parliament at a time when criminal proceedings were pending.**
- 8. The Committee refers to Parliament the question of whether this retrospective operation trespasses unduly on personal rights and liberties.**

### Rule of Law

9. The Committee notes that the immediate motivation for the adjustment of the pension entitlement rules effected by the Bill is the recent resignation from Parliament of a particular person. For this reason, the Committee notes that the Bill may be akin to an *ad hominem* law, and therefore, inconsistent with the Rule of Law principle that laws should be general in nature, and not directed at an individual.
10. However, the Committee notes that, while the motivation behind, and immediate effect of, the Bill may centre on a particular person (hence its retrospective operation), it is not limited in its operation to one individual. In the future, the pension entitlements of all persons who cease to be members of Parliament while proceedings for a serious criminal offence are pending will be governed by the rules introduced by the Bill.

- 11. The Committee notes that, although this Bill was drafted in response to an individual case, it is not limited in operation to one individual. The Committee is of the view that, for this reason, the Bill is not an *ad hominem* law and, on balance, does not unduly trespass on this fundamental Rule of Law principle.**

### Presumption of Innocence

12. Third, the Bill may be considered to violate the fundamental right to be presumed innocent. Under the current law a person only loses his or her parliamentary pension entitlement if she or he is *convicted* of a criminal offence. The justification for the financial detriment suffered is the fact of a criminal conviction.
13. However, under the Bill, a person will suffer financial detriment *before* his or her guilt has been established beyond reasonable doubt. In this respect, the Committee is of the view that the Bill trespasses on a fundamental personal right.
14. However, the Committee notes that under the Bill a former member's pension entitlement is suspended only until the criminal proceedings are finalised. Further,

the Bill includes arrangements for ameliorating the financial impact of the suspension with a view to ensuring that the former member is not without means during the period that the criminal proceedings are on foot. The Committee notes that under proposed s 19AA(7) [cl 1] the Trustees of the Parliamentary Contributory Superannuation Fund may, during the period of the suspension, authorise payment of an advance from superannuation contributions made by the former member (to which she or he will remain entitled after the passage of the Bill).

- 15. The Committee notes the fundamental right of everyone to be presumed innocent until proved guilty beyond reasonable doubt.**
- 16. The Committee also notes that under the Bill, a person will suffer financial detriment *before* his or her guilt has been established beyond reasonable doubt and, therefore, the Bill trespasses on a fundamental personal right.**
- 17. The Committee further notes that the Bill only suspends a person's pension entitlement pending a final determination of their innocence or guilt and that it provides for the Trustees of the Parliamentary Contributory Superannuation Fund to authorise an advance from superannuation to the member during the period of their suspension.**
- 18. The Committee is of the view that, having regard to these matters, the trespass on a person's right to be presumed innocent is not undue.**

***The Committee makes no further comment on this Bill.***

### 3. PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (CHILD SEXUAL OFFENCES DISCLOSURES) BILL

|                       |                         |
|-----------------------|-------------------------|
| Date Introduced:      | 15 November 2006        |
| House Introduced:     | Legislative Assembly    |
| Minister Responsible: | The Hon Morris Iemma MP |
| Portfolio:            | Premier                 |

#### Purpose and Description

1. The object of this Bill is to amend the *Parliamentary Electorates and Elections Act 1912* to:
  - (a) require candidates for election to Parliament to declare whether they have been convicted of the murder of a child or a child sexual offence or have ever been the subject of proceedings for such an offence or the subject of an apprehended violence order for the purposes of protecting a child from sexual assault;
  - (b) make it an offence, punishable by imprisonment for up to 5 years, to make a false declaration; and
  - (c) require the Commission for Children and Young People to audit the declarations for accuracy and to report on the audit to Parliament.

#### Background

2. The second reading speech states that:

This legislation will ensure that politicians are transparent about their backgrounds so that the community has adequate information when it votes as to whether the candidate will meet community expectations in relation to the protection of our young people.<sup>4</sup>

#### The Bill

3. The Bill requires a nomination paper of a candidate for election to either House to be accompanied by a child-related conduct declaration [s 79 & s 81B]. Failing to so provide will result in a nominated person being taken not to be a candidate.
4. A declaration must state whether or not the candidate has ever been convicted of the murder of a child, or a child sexual offence, or criminal proceedings for such an offence have ever been commenced against the candidate, and whether or not a relevant apprehended violence order has ever been made against the candidate [proposed s 81L]. It will be an offence, punishable by 5 years' imprisonment, to make a declaration knowing it to be false or not believing it to be true, the effect of which

---

<sup>4</sup> The Hon Reba Meagher MP, *Legislative Assembly Hansard*, 15 November 2006.



will be that the member's seat becomes vacant, pursuant to s 13A of the *Constitution Act 1902*.

5. It will also be an offence to disclose information obtained in connection with the conduct of an audit or consultation under proposed s 81N, except in specified circumstances, or to dishonestly obtain confidential information relating to the conduct of an audit or consultation [proposed s 81O].

## **Issues Considered by the Committee**

- |   |
|---|
| <ol style="list-style-type: none"><li>6. <b>The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i>.</b></li></ol> |
|---|

*The Committee makes no further comment on this Bill.*

## 4. POLICE POWERS LEGISLATION AMENDMENT BILL 2006

Date Introduced: 14 November 2006  
House Introduced: Legislative Assembly  
Minister Responsible: The Hon John Watkins MP  
Portfolio: Police

### Purpose and Description

1. The Bill amends:
  - (a) the *Law Enforcement (Powers and Responsibilities) Act 2002*:
    - (i) to provide more extensive search powers to police;
    - (ii) to provide for for the establishment of crime scenes and the exercise of police powers at such crime scenes;
    - (iii) to provide for for safeguards that apply to the exercise of police powers, including changing the form of police warning that must be given with requests by police officers;
    - (iv) to provide for the destruction of finger-prints and palm-prints taken from persons in custody when offences are not proven and to provide for the taking and destruction of finger-prints and palm-prints from persons issued with penalty notices;
    - (v) to extend the period at the end of which a review of the Act must be carried out;
  - (b) the *Police Powers (Drug Detection in Border Areas Trial) Act 2003*:
    - (i) to revive and extend the trial under that Act;
    - (ii) to extend the trial to permit drug detection operations in all areas outside the metropolitan areas of Newcastle, Sydney and the Illawarra;
    - (iii) to change the method by which police officers are authorised to exercise powers conferred by that Act;
    - (iv) to make other minor modifications to the trial; and
    - (v) to provide for the monitoring of the extension of the trial by the Ombudsman; and
  - (c) the *Terrorism (Police Powers) Act 2002*:
    - (i) to further provide for the grant of an authorization;
    - (ii) to authorise police officers executing a covert search warrant to take action for the purpose of concealing the search from the occupier of the premises;
    - (iii) to extend the period for a review under that Act; and

- (iv) to make other changes for consistency with police powers under the *Law Enforcement (Powers and Responsibilities) Act 2002*; and
- (d) the Criminal Procedure Act 1986:
  - (i) to allow penalty notices to be served by post (as well as personally as is currently the case) and to provide for the withdrawal of penalty notices; and
  - (ii) to require the Ombudsman to report on certain matters relating to the issue of penalty notices; and
- (e) the *Criminal Procedure Regulation 2005* so that penalty notices cannot be issued for common assault offences.

## Issues Considered by the Committee

|  |
|--|
| <p><b>2. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i>.</b></p> |
|--|

***The Committee makes no further comment on this Bill.***

## 5. REGISTERED CLUBS AMENDMENT BILL 2006

Date Introduced: 14 November 2006  
House Introduced: Legislative Assembly  
Minister Responsible: The Hon Grant McBride MP  
Portfolio: Gaming and Racing

### Purpose and Description

1. The object of this Bill is to amend the *Registered Clubs Act 1976* as follows:
  - (a) to enable the regulations to specify the requirements that must be complied with in relation to the amalgamation of registered clubs,
  - (b) to increase, from 4 to 10, the number of clubs with which any particular club may amalgamate,
  - (c) to require the election of the governing body of a registered club to be conducted, depending on the size of the club, either by a person or body approved by the Director of Liquor and Gaming or in accordance with the regulations,
  - (d) to enable the regulations to create exceptions to the 5-kilometre residency test that applies in relation to temporary club membership,
  - (e) to confer on serving Defence Force personnel honorary membership of all RSL or services clubs,
  - (f) to consolidate the financial reporting requirements that apply in relation to registered clubs,
  - (g) to modify the requirements relating to disposal of club property,
  - (h) to make a number of other amendments of a minor or consequential nature.

### Background

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

The Registered Clubs Amendment Bill provides for amendments to the Registered Clubs Act that have emerged from the deliberations of the club industry working group. The amendments are a package of reforms developed in partnership with the New South Wales clubs industry... The role of this working group is to examine, discuss and develop proposals for amendments to the Registered Clubs Act arising from issues of concern for the government and the industry.<sup>5</sup>

### Issues Considered by the Committee

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

***The Committee makes no further comment on this Bill.***

---

<sup>5</sup> The Hon Grant McBride MP, Legislative Assembly *Hansard*, 14 November 2006.

## 6. ROAD TRANSPORT LEGISLATION AMENDMENT (EVIDENCE) BILL 2006

Date Introduced: 14 November 2006  
House Introduced: Legislative Assembly  
Minister Responsible: The Hon John Watkins MP  
Portfolio: Transport

### Purpose and Description

1. The Bill amends the *Road Transport (General) Act 2005*, the *Road Transport (Safety and Traffic Management) Act 1999*, and the *Roads Act 1993*, with respect to evidentiary matters, including:
  - (a) the evidentiary value of certain certificates, photographs, statutory declarations, and the like, that can be tendered as evidence in proceedings for various offences, and
  - (b) the type of evidence that is capable of being sufficient, for the purposes of certain provisions, to rebut prima facie evidence or a presumption, or to raise doubt about a matter, in connection with approved speed measuring devices, various approved camera devices, and information (including photographs) derived from such devices.
2. The Bill also makes consequential amendments to the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* and the *Roads (General) Regulation 2000*.

### Background

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

The primary reason for these amendments is to protect and maintain the road safety benefit of speed cameras and other enforcement cameras, such as red light cameras...

Speed cameras are a highly effective and targeted means of deterring speeding on our roads... statistics provided by the Roads and Traffic Authority show fatal crashes can be reduced by 90 per cent where speed cameras are introduced. Injury crashes can be reduced by 20 per cent. This demonstrated safety benefit shows the importance of making sure the legislation governing speed cameras is working in the public interest.

... [The Bill] reinforces the safety benefits of speed cameras and similar devices. It provides guidance to the courts in consistently applying the relevant legislative provisions, and it provides for defendants with legitimate expert evidence that raises a reasonable doubt as to the reliability of a relevant device to put their defence.<sup>6</sup>

---

<sup>6</sup> Mr P E McLeay MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 14 November 2006.

## Evidence

4. The second reading speech also made reference to the use of the expression *prima facie evidence* in the legislation. Under the repealed *Traffic Act 1909* [Traffic Act], certificate evidence establishing that an approved speed-measuring device was accurate and operating properly at the relevant time was admissible in court. Under s 4AB of that Act, particulars in such a certificate were accepted as *prima facie* evidence, so that it was unnecessary for the prosecution to call an expert to testify to the proper operation of the device at the time of the particular offence. Only where a defendant presented evidence to the effect that the device had *not* been accurate or reliable was it necessary for the prosecution to call its own expert to refute the defendant's expert evidence.
5. Section 4AC of the Traffic Act allowed a photograph taken by a speed camera to be accepted as *prima facie* evidence of the matters shown or recorded on the photograph, and provided that the contents of an evidentiary certificate could be presented to a court as *prima facie* evidence that a speed camera was found to be operating correctly at the time of an excess speed offence.
6. The current road transport legislation maintained the nomenclature “approved speed measuring device”, “approved camera recording device” and “approved camera detection device”. However, the expression “*prima facie* evidence” was replaced with “evidence (unless evidence to the contrary is adduced)”, although there was no intention to change the substance or legal effect of the legislation.<sup>7</sup> The Bill’s current approach is consistent with the national model legislation, reflected in the recent *Road Transport (General) Amendment (Intelligent Access Program) Act 2006*.<sup>8</sup>

## The Bill

### *Road Transport (General) Act 2005*

7. The Bill amends the *Road Transport (General) Act 2005* to clarify the evidentiary effect of a statutory declaration referred to in s 179(9) of that Act. Proposed new s 179(9) provides that such a declaration is *prima facie* evidence of matters referred to in that subsection.

### *Road Transport (Safety Traffic Management) Act 1999*

8. The Bill amends the *Road Transport (Safety and Traffic Management) Act 1999* [the Traffic Management Act] to clarify the evidentiary effect of the various certificates, photographs, statutory declarations and other forms of evidence to which the provisions refer. The amended provisions state that they are *prima facie* evidence of the various matters specified in those provisions.<sup>9</sup>

---

<sup>7</sup> Mr P E McLeay MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 14 November 2006.

<sup>8</sup> It is also intended to overcome the practical difficulties posed by the decision of *RTA v Mitchell* [2006] NSWSC 194 (22 March 2006), in which Adams J held at paragraph 15 that all that was necessary was to adduce *any* evidence to the contrary, rather than evidence of “any particular quality”, eg, such as would create a reasonable doubt of the accuracy of the device.

<sup>9</sup> The provisions proposed to be amended are s 33(1), (2) and (4)–(7), s 33B, s 33D, s 35(1)–(3), s 54(2), s 57(3), s 57B(3), s 69C(2), s 69D(1), s 71(10), s 75(3) and s 76(8), and cl 5(2)(f) of Schedule 1 to the Act.

9. The Bill inserts s 73A in the Traffic Management Act. The proposed section applies to the determination of whether evidence is sufficient to rebut prima facie evidence or a presumption, or to raise doubt, for the purposes of proposed new s 46, s 47, s 57, s 57B or s 69E.
10. Under proposed new s 73A, an assertion that contradicts or challenges:
- the accuracy or reliability, or the correct or proper operation, of an approved device;<sup>10</sup> or
  - the accuracy or reliability of information (including a photograph) derived from such a device,

is capable of being sufficient, in proceedings to which the proposed section applies, to rebut such evidence or such a presumption, or to raise such doubt, only if it is evidence adduced from a person who has relevant specialised knowledge, based wholly or substantially on the person's training, study or experience [proposed new s 73A(2)].

### ***Roads Act 1993***

11. The Bill amends s 250A of the *Roads Act 1993* consistently with the proposed amendments to s 46, s 47, s 57 and s 57B of the Traffic Management Act [see above]. The amendments to s 250A include the introduction of a presumption that a photograph tendered as bearing a security indicator of a kind prescribed by the regulations bears such an indicator, unless evidence sufficient to raise doubt that it does so is adduced.
12. Proposed new s 250A(7) makes similar provision for rebutting evidence, etc, as is contained in proposed new s 73A(2) of the Traffic Management Act [see paragraph 10].

## **Issues Considered by the Committee**

- |   |
|---|
| <p><b>13. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i>.</b></p> |
|---|

***The Committee makes no further comment on this Bill.***

---

<sup>10</sup> An *approved device* is an approved camera detection device, approved camera recording device, approved speed measuring device or approved traffic lane camera device: proposed s 73A(3).

## 7. SALE OF GOODS AND WAREHOUSEMEN'S LIENS AMENDMENT (BULK GOODS) BILL 2006\*

Date Introduced: 14 November 2006

House Introduced: Legislative Assembly

Member Responsible: Mr Peter Draper MP

### Purpose and Description

1. This Bill arises from the financial collapse of Creasy Grain Enterprises, a grain trading company that has gone first into receivership and then into liquidation.
2. Various grain growers who have stored grain with that company have been under threat of losing their rights to the grain as a consequence of the company's collapse.
3. The storage of goods in bulk has certain legal consequences, particularly in the context of contracts of sale (where a vendor sells to purchasers from a single bulk store) and in the context of warehousing (where goods belonging to a number of owners are deposited in a single bulk store). Grains and other agricultural commodities are typical examples of commodities that, because they are commonly stored in bulk, are affected by these consequences.
4. In relation to contracts of sale, section 21 of the *Sale of Goods Act 1923* provides that property in "unascertained" goods does not pass under a contract of sale until the goods are "ascertained". In this context, goods are "ascertained" when they are separated out from bulk as, for example, when they are loaded on a truck for delivery.
5. In relation to warehousing, the goods of one person commonly become intermingled with those of another, rendering it impossible for the same goods to be returned to the person by whom they were deposited. Storage contracts in this situation can therefore only oblige the warehouseman to return an equivalent quantity of the same kind of goods. The High Court, in *Chapman Bros v Verco Bros & Co Ltd* [1933] 49 CLR 306, decided that, in these circumstances, property in the goods passes to the warehouseman when the goods are deposited.
6. The objects of this Bill are:
  - (a) to amend the *Sale of Goods Act 1923* so as to provide that a purchaser of goods to be delivered from bulk storage can, by paying for them, obtain a proprietary right to those goods before they are separated out from the bulk, and
  - (b) to amend the *Warehousemen's Liens Act 1935* so as to ensure that an owner of goods delivered into bulk storage retains a proprietary right to those goods after they have become part of the bulk.



## Background

7. The second reading speech states that the bill is introduced in response to:

...the collapse of Liverpool Plains-based Creasy Grain Enterprises in August 2005. Afterwards, six grain producers, who had 1,000 tonnes of sorghum and barley stored in the company's Premer silos, were told by the administrator, Ferrier Hodgson, that they could no longer claim ownership to their grain. This antiquated stance was based on a 1933 court case involving *Chapman Bros v Verco Bros. and Company Limited and Another* over the ownership of bagged grain. The court ruled that as ownership of the mingled grain could not be determined, the owner of the storage facility was deemed to be the owner of the grain. Lawyers acting for Ferrier Hodgson revived this precedent, leaving the six Premer producers potentially out of pocket.

...Growers whose grain was held by Creasy launched a legal challenge against Ferrier Hodgson... The matter, however, was never fully tested in the court system and was settled out of court for \$97,000, representing the then market value of the grain plus a proportion of legal costs.

The matter settled without either party admitting liability... the risk remains that other farmers could find themselves in similar circumstances should there be another collapse.<sup>11</sup>

## Issues Considered by the Committee

8. **The Committee did not identify any issues arising under s 8A(1)(b) of the *Legislation Review Act 1989*.**

*The Committee makes no further comment on this Bill.*

<sup>11</sup> Mr Peter Draper, Member for Tamworth, Legislative Assembly *Hansard*, 14 November 2006.

## 8. STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2006

Date Introduced: 14 November 2006  
House Introduced: Legislative Assembly  
Minister Responsible: The Hon Morris Iemma MP  
Portfolio: Premier

### Purpose and Description

1. The objects of this Bill are:
  - (a) to make minor amendments to various Acts (proposed Schedule 1), and
  - (b) to amend certain other Acts and instruments for the purpose of effecting statute law revision (proposed Schedules 2 and 3), and
  - (c) to repeal certain Acts and provisions of Acts (proposed Schedule 4), and
  - (d) to make other provisions of a consequential or ancillary nature (proposed Schedule 5).

### Background

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

The Statute Law (Miscellaneous Provisions) Bill (No. 2) continues the well-established statute law revision program that is recognised ... as a cost-effective and efficient method for dealing with minor amendments. The form of the bill is similar to that of previous bills in the statute law revision program... Schedule 1 contains policy changes of a minor and non-controversial nature that the responsible Minister considers do not warrant the introduction of a separate amending bill. That schedule contains amendments to 34 Acts.

Schedule 2 deals with matters of pure statute law revision that the Parliamentary Counsel considers are appropriate for inclusion—for example, amendments arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology... Schedule 4 repeals a number of Acts and provisions of Acts.<sup>12</sup>

### Issues Considered by the Committee

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

***The Committee makes no further comment on this Bill.***

---

<sup>12</sup> Mr Paul McLeay, Parliamentary Secretary, Legislative Assembly *Hansard*, 14 November 2006.

## 9. VICTIMS SUPPORT AND REHABILITATION AMENDMENT BILL 2006

|                       |                      |
|-----------------------|----------------------|
| Date Introduced:      | 14 November 2006     |
| House Introduced:     | Legislative Assembly |
| Minister Responsible: | The Hon Bob Debus MP |
| Portfolio:            | Attorney General     |

### Purpose and Description

1. The Bill's objects are to implement key recommendations from the report of the statutory review of the *Victims Support and Rehabilitation Act 1996* [the Act] and the *Victims Rights Act 1996*, and to make other reforms to those Acts and the *Crimes (Sentencing Procedure) Act 1999*.

### Background

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

The main purpose of this bill is to implement the key recommendations from the report of the statutory review of the Victims Support and Rehabilitation Act 1996 and the Victims Rights Act 1996. There will also be a change to the Crimes (Sentencing Procedure) Act 1999 concerning victim impact statements. The bill implements the majority of the report's recommendations. A small number of these recommendations have been changed or altered to take into account some of the concerns raised by stakeholders. It also contains a number of new reforms. The Victims Advisory Board and victims' support groups have provided invaluable assistance in developing the changes contained in this bill.<sup>13</sup>

### The Bill

#### Statutory compensation for prescribed expenses

3. The Bill provides that the statutory compensation for which a primary victim<sup>14</sup> is eligible includes compensation for prescribed expenses, ie, actual expenses as are prescribed by the regulations and incurred as a direct result of an act of violence [proposed new s 14A2].<sup>15</sup> The expenses are prescribed by the proposed *Victims*

<sup>13</sup> Ms L J Burney MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 14 November 2006.

<sup>14</sup> A primary victim of an act of violence is a person who receives a compensable injury, or dies, as a direct result of that act. A primary victim extends to a person who receives a compensable injury, or dies, as a direct result of trying to:

- prevent another person from committing that act;
- help or rescue another person against whom that act is being committed or has just been committed; or
- arrest another person who is committing, or who has just committed, that act: s 7 of the Principal Act.

<sup>15</sup> An act of violence is an act or series of related acts, committed by one or more persons that has:

- apparently occurred in the course of the commission of an offence;
- involved violent conduct against one or more persons; and
- resulted in injury or death to one or more of those persons.

It extends to sexual assault and domestic violence as defined in the Act's Dictionary [s 5], and the Bill provides that it also extends to conduct of a person that would constitute an offence were it not for the fact

*Support and Rehabilitation Regulation 2006* [Sch 4]. The maximum amount which may be awarded is \$1,500, an amount which may be varied by the regulations [proposed new s 14A(5)].

4. Under the Act, a primary victim may be awarded up to \$50,000 as statutory compensation, consisting of:
  - compensation for compensable injuries received by the victim as a direct result of the act of violence, and
  - compensation for financial loss incurred by the victim as a direct result of any such compensable injury [s 14(1)].
5. The Bill provides that a primary victim may be awarded statutory compensation under s 14 *in addition* to statutory compensation for prescribed expenses [proposed new s 22(1A)]. However, the Bill also provides that statutory compensation for prescribed expenses is not payable to a primary victim who has already been awarded statutory compensation under s 14 [proposed new s 14A(6)].<sup>16</sup>

### **Eligibility**

6. Currently, a victim may not be awarded statutory compensation unless the total amount payable, as compensation for compensable injuries, is at least \$7,500 [s 20]. A primary victim who is not therefore entitled to statutory compensation to which s 14 applies may, however, be awarded statutory compensation for prescribed expenses.
7. The Bill provides that where an applicant has applied for statutory compensation to which s 14 applies and is not eligible to receive that kind of compensation - due to s 20 - but is eligible to receive statutory compensation for prescribed expenses, the compensation assessor may determine the application as an application for statutory compensation for prescribed expenses [proposed new s 29(1AA)].<sup>17</sup>
8. The Bill also provides that if the standard amount of compensation is reduced, pursuant to the operation of certain provisions of the Act, it is the reduced amount which is to be used in determining whether compensation is at least the threshold amount required under s 20 [proposed new s 20(3A)].<sup>18</sup>

---

that the person cannot be held criminally responsible for the conduct because of the person's age or mental illness or impairment: proposed s 5(1A).

<sup>16</sup> Moreover, statutory compensation to which proposed amended s 14 applies is not payable for financial loss to the extent that statutory compensation for prescribed expenses has been awarded for that loss [proposed new s 14(3)].

<sup>17</sup> An applicant for statutory compensation for prescribed expenses is not generally entitled to receive costs in respect of the application [proposed new s 35(8)]. However, where an application has been determined as one for statutory compensation for prescribed expenses because of the application of proposed s 29(1AA), the applicant may be awarded costs if the Tribunal or compensation assessor concerned is of the opinion that special circumstances justify such an award being made.

<sup>18</sup> The Bill enables the Director, Victims Services, on the application of an applicant for statutory compensation for prescribed expenses, to correct any miscalculation in the amount of an award of that kind of compensation [proposed new s 35A]. Such an application must be made within 28 days after the relevant notice of determination was duly served: proposed new s 35A(2).

### Compensation assessment

9. The Bill requires a compensation assessor to have regard to whether the act of violence concerned was reported to a relevant health professional or practitioner, or a relevant agency [proposed new s 30(1)(b1)]. Among the matters to which an assessor must have regard is whether the victim failed to take reasonable steps to mitigate the extent of the victim's injury - such as seeking appropriate medical advice or treatment, or undertaking counseling - as soon as practicable after the act of violence was committed. The Bill also requires the assessor to have regard to the nature of the relationship between the victim and the person by whom the act of violence is alleged to have been committed [proposed s 30(2A)].

### *Victims Rights Act 1996*

10. The Bill amends this Act by replacing references to *mental illness or nervous shock* with references to *psychological or psychiatric harm* [amended s 5 & s 6] in order to reflect "modern legal and medical terminology for describing harm".<sup>19</sup>

### Issues Considered by the Committee

- |  |
|--|
| 11. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
|--|

*The Committee makes no further comment on this Bill.*

---

<sup>19</sup> Ms L J Burney MP, Parliamentary Secretary, Legislative Assembly *Hansard*, 14 November 2006. The *Charter of Victims Rights* is also amended to incorporate the principles of multiculturalism.

## 10. WORLD YOUTH DAY BILL 2006

Date Introduced: 14 November 2006  
House Introduced: Legislative Assembly  
Minister Responsible: The Hon John Watkins MP  
Portfolio: Deputy Premier

Pursuant to a suspension of Standing Orders, the Bill passed all stages in the Legislative Assembly on 15 November 2006 and in the Legislative Council on 16 November 2006.

### Purpose and Description

1. The Bill constitutes a World Youth Day Co-ordination Authority, confers certain functions on the Authority and provides for the co-operation of other government agencies in the planning, co-ordination and delivery of government services in relation to World Youth Day 2008.

### Issues Considered by the Committee

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

*The Committee makes no further comment on this Bill.*

## Part Two – Regulations

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

| Regulation   | Gazette reference |      | Information sought | Response Received |
|--|-------------------|------|--------------------|-------------------|
|  | Date              | Page |                    |                   |
| Native Vegetation Amendment (Private Native Forestry) Regulation (No 2) 2006 | 29/09/06          | 8467 | 13/10/06           |                   |
| Road Transport (General) Regulation 2005                                     | 30/09/05          | 7738 | 13/10/06           |                   |





# Appendix 1: Index of Bills Reported on in 2006

|  | Digest Number |
|--|---------------|
| Aboriginal Land Rights Amendment Bill 2006   | 16            |
| Adoption Amendment Bill 2006   | 15            |
| Air Transport Amendment Bill 2006  | 2             |
| Apiaries Amendment Bill 2006   | 10            |
| Appropriation Bill 2006  | 9             |
| Appropriation (Budget Variations) Bill 2006  | 6             |
| Appropriation (Parliament) Bill 2006   | 9             |
| Appropriation (Special Offices) Bill 2006  | 9             |
| Avalon Police Station (Public Ownership) Bill 2006*  | 17            |
| Bail Amendment (Lifetime Parole) Bill 2006   | 12            |
| Banning Political Advertising (Make Labor Pay) Bill 2006*  | 16            |
| Business Names Amendment Bill 2006   | 11            |
| Careel Bay Protection Bill 2006*   | 2             |
| Channel 7 Former Epping Site Protection Bill 2006*   | 10            |
| Charter of Budget Honesty (Election Promises Costing) Bill 2006  | 15            |
| Central Coast Water Corporation Bill 2006  | 16            |
| Charitable Trusts Amendment Bill 2006  | 16            |
| Child Protection (International Measures) Bill 2006  | 2             |
| Children and Young Persons (Care and Protection) Amendment (Parent Responsibility Contracts) Bill 2006 | 11            |
| Children and Young Persons (Care and Protection) Bill 2006   | 7             |
| Children and Young Persons (Care and Protection) Miscellaneous Amendments Bill 2006                    | 16            |
| Children (Detention Centres) Amendment Bill 2006   | 8             |
| Civil Liability Amendment Bill 2006  | 7             |
| Coal and Oil Shale Mine Workers (Superannuation) Amendment Bill 2006                                   | 8             |
| Community Protection (Closure of Illegal Brothels) Bill 2006*  | 12            |
| Companion Animals Amendment Bill 2006  | 16            |
| Constitution Amendment (Governor) Bill 2006  | 7             |
| Conveyancers Licensing Amendment Bill 2006   | 7             |
| Correctional Services Legislation Amendment Bill 2006  | 8             |
| Courts Legislation Amendment Bill 2006   | 4             |
| Courts Legislation Further Amendment Bill 2006   | 8             |

|   | Digest Number |
|---|---------------|
| Crimes (Administration of Sentences) Amendment Bill 2006                              | 15            |
| Crimes and Courts Legislation Amendment Bill 2005                                     | 1             |
| Crimes and Courts Legislation Amendment Bill 2006                                     | 16            |
| Crimes Amendment (Apprehended Violence) Bill 2006                                     | 11            |
| Crimes Amendment (Murder of Police Officers) Bill 2006*                               | 7             |
| Crimes Amendment (Organised Car and Boat theft) Bill 2006                             | 4             |
| Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill 2006                     | 13            |
| Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006                      | 13            |
| Crimes (Forensic Procedures) Amendment Bill 2006                                      | 14            |
| Crimes Legislation Amendment (Gangs) Bill 2006  | 10            |
| Crimes (Serious Sex Offenders) Bill 2006  | 5             |
| Crimes (Sentencing Procedure) Amendment Bill 2006                                     | 5             |
| Crimes (Sentencing Procedure) Amendment (Gang Leaders) Bill 2006*                     | 3             |
| Criminal Procedure Amendment (Sexual and Other Offences) Bill 2006                    | 15            |
| Crown Lands Legislation (Carbon Sequestration) Bill 2006                              | 15            |
| Deer Bill 2006  | 10            |
| Duties Amendment (Abolition of State Taxes) Bill 2006                                 | 9             |
| Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006              | 8             |
| Education Amendment (Financial Assistance to Non-Government Schools) Bill 2006        | 9             |
| Education Legislation Amendment Bill 2006   | 16            |
| Education Legislation Amendment (Staff) Bill 2006                                     | 6             |
| Election Funding Amendment Bill 2006  | 15            |
| Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Bill 2006              | 15            |
| Electricity Supply Amendment (Protection of Electricity Works) Bill 2006              | 6             |
| Environmental Planning and Assessment Amendment Bill 2006                             | 2             |
| Environmental Planning and Assessment Amendment (Reserved Land Acquisition) Bill 2006 | 4             |
| Environmental Planning Legislation Amendment Bill 2006                                | 16            |
| Fair Trading Amendment Bill 2006  | 8             |
| Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill 2006      | 11            |
| Fines Amendment (Payment of Victims Compensation Levies) Bill 2006                    | 2             |
| Firearms Amendment (Good Behaviour Bonds) Bill 2006*                                  | 2             |
| Fisheries Management Amendment Bill 2006  | 2             |
| Freedom of Information Amendment (Improving Public Access to Information) Bill 2006*  | 14            |

|  | Digest Number |
|--|---------------|
| Freedom of Information Amendment (Open Government-Disclosure of Contracts) Bill 2005             | 1             |
| Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006                       | 12            |
| Home Building Amendment (Statutory Warranties) Bill 2006   | 16            |
| Independent Commission Against Corruption Amendment (Operations Review Committee) Bill 2006      | 5             |
| Industrial Relations Amendment Bill 2006   | 3             |
| Industrial Relations (Child Employment) Bill 2006  | 16            |
| Industrial Relations Further Amendment Bill 2006   | 16            |
| Interpretation Amendment Bill 2006   | 8             |
| James Hardie (Civil Liability) Bill 2005   | 1             |
| James Hardie (Civil Penalty Compensation Release) Bill 2005                                      | 1             |
| James Hardie Former Subsidiaries (Winding up and Administration) Bill 2005                       | 1             |
| Judicial Officers Amendment Bill 2006  | 6             |
| Jury Amendment (Verdicts) Bill 2006  | 5             |
| Land Tax Management Amendment (Tax Threshold) Bill 2006  | 2             |
| Law Enforcement (Controlled Operations) Amendment Bill 2006                                      | 3             |
| Law Enforcement Legislation Amendment (Public Safety) Bill 2005                                  | 1             |
| Legal Profession Amendment Bill 2006   | 5             |
| Legal Profession Further Amendment Bill 2006   | 16            |
| Liquor Amendment (2006 FIFA World Cup Hotel Trading) Bill 2006                                   | 8             |
| Local Government Amendment (Miscellaneous) Bill 2006   | 6             |
| Local Government Amendment (Waste Removal Orders) Bill 2006                                      | 8             |
| Motor Accidents Compensation Amendment Bill 2006   | 3             |
| Motor Accidents (Lifetime Care and Support) Bill 2006  | 3             |
| Motor Vehicle Repairs (Anti-steering) Bill 2006*   | 4             |
| Mount Panorama Motor Racing Amendment Bill 2006  | 14            |
| National Parks and Wildlife (Adjustment of Areas) Bill 2006                                      | 2             |
| National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill 2006*              | 14            |
| National Park Estate (Lower Hunter Regions Reservations) Bill 2006                               | 15            |
| Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006 | 17            |
| Parliamentary Electorates and Elections Amendment Bill 2006                                      | 10            |
| Parliamentary Electorates and Elections Amendment (Child Sex Offences Disclosures) Bill 2006     | 17            |
| Passenger Transport Amendment Bill 2006  | 15            |

|  | Digest Number |
|--|---------------|
| Pharmacy Practice Bill 2006  | 7             |
| Pipelines Amendment Bill 2006  | 7             |
| Police Amendment (Death and Disability) Bill 2005                                | 1             |
| Police Amendment (Miscellaneous) Bill 2006                                       | 15            |
| Police Amendment (Police Promotions) Bill 2006                                   | 10            |
| Police Integrity Commission Amendment Bill 2006                                  | 10            |
| Police Powers Legislation Amendment Bill 2006                                    | 17            |
| Ports Corporatisation and Waterways Management Amendment Bill 2006               | 15            |
| Professional Standards Amendment (Defence Costs) Bill 2006                       | 12            |
| Protection of the Environment Operations Amendment (Waste Reduction) Bill 2006   | 3             |
| Public Sector Employment Legislation Amendment Bill 2006                         | 3             |
| Quarantine Station Preservation Trust Bill 2006*                                 | 15            |
| Racing Legislation Amendment Bill 2006   | 15            |
| Registered Clubs Amendment Bill 2006   | 17            |
| Road Transport (General) Amendment (Intelligent Access Program) Bill 2006        | 11            |
| Road Transport Legislation Amendment (Drug Testing) Bill 2006                    | 12            |
| Road Transport Legislation Amendment (Evidence) Bill 2006                        | 17            |
| Royal Rehabilitation Centre Sydney Site Protection Bill 2006*                    | 3             |
| Rural Communities Impact Bill 2006*  | 16            |
| Rural Lands Protection Amendment Bill 2006                                       | 16            |
| Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Bill 2006*         | 17            |
| Security Industry Amendment (Patron Protection) Bill 2006*                       | 7             |
| Smoke-free Environment Amendment (Removal of Exemptions) Bill 2006*              | 4             |
| Snowy Hydro Corporatisation Amendment (Parliamentary Scrutiny of Sale) Bill 2006 | 9             |
| Snowy Hydro Corporatisation Amendment (Protect Snowy Hydro) Bill 2006            | 9             |
| State Property Authority Bill 2006   | 7             |
| State Revenue and Other Legislation Amendment (Budget Measures) Bill 2006        | 9             |
| State Revenue Legislation Amendment Bill 2006                                    | 8             |
| State Revenue Legislation Amendment (Tax Concessions) Bill 2006                  | 15            |
| Statute Law (Miscellaneous Provisions) Bill 2006                                 | 8             |
| Statute Law (Miscellaneous Provisions) Bill (No 2) 2006                          | 17            |
| Succession Bill 2006   | 12            |
| Summary Offences Amendment (Display of Spray Cans) Bill 2006                     | 7             |

|   | Digest Number |
|---|---------------|
| Superannuation Administration Amendment (Trust Deed Schemes) Bill 2006                | 16            |
| Superannuation Legislation Amendment Bill 2006  | 8             |
| Sydney Cricket and Sports Ground Amendment Bill 2006                                  | 8             |
| Sydney Water Catchment Management Amendment (Warragamba) Bill 2006                    | 14            |
| Threatened Species Conservation Amendment (Biodiversity Banking) Bill 2006            | 9             |
| Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006 | 6             |
| Transport Administration Amendment (Travel Concession) Bill 2006                      | 9             |
| Trees (Disputes Between Neighbours) Bill 2006   | 16            |
| University of Technology (Kuring-gai Campus) Bill 2006*                               | 8             |
| Valuation of land Amendment Bill 2006   | 7             |
| Victims Support and Rehabilitation Amendment Bill 2006                                | 17            |
| Water Industry Competition Bill 2006  | 16            |
| Water Management Amendment (Water Property Rights Compensation) Bill 2006             | 5             |
| Western Sydney Parklands Bill 2006  | 15            |
| Workers Compensation Legislation Amendment Bill 2006                                  | 4             |
| Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005       | 1             |
| Workers Compensation Legislation Amendment (Permanent Impairment Benefits) Bill 2006  | 16            |
| World Youth Day Bill 2006   | 17            |
| Young Offenders Amendment (Reform of Cautioning and Warning) Bill 2006*               | 8             |

## Appendix 2: Index of Ministerial Correspondence on Bills

| Bill   | Minister/Member                     | Letter sent | Reply received | Digest 2005 | Digest 2006 |
|--|-------------------------------------|-------------|----------------|-------------|-------------|
| Children (Detention Centres) Bill 2006   | Minister for Juvenile Justice       | 02/06/06    | 27/06/06       |             | 8, 9        |
| Commission for Children and Young People Amendment Bill 2005   | Minister for Community Services     | 25/11/05    | 25/08/06       | 15          | 10          |
| Companion Animals Amendment Bill 2005  | Minister for Local Government       | 25/11/05    | 15/12/05       |             | 1           |
| Confiscation of Proceeds of Crime Amendment Bill 2005  | Attorney General                    | 10/10/05    | 23/11/05       | 11          | 1           |
| Correctional Services Legislation Amendment Bill 2006  | Minister for Justice                | 02/06/06    |                |             | 8           |
| Crimes Amendment (Road Accidents) Bill 2005  | Attorney General                    | 10/10/05    | 12/12/05       | 11          | 1           |
| Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006 & Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill 2006 | Premier                             | 26/09/06    | 17/10/06       |             | 13,15       |
| Crimes Legislation Amendment (Gangs) Bill 2006   | Minister for Police                 | 05/09/06    |                |             | 10          |
| Crimes (Sentencing Procedure) Amendment (Existing Life Sentences) Bill 2005  | Attorney General                    | 23/05/05    | 19/04/06       | 6           | 5           |
| Crimes (Serious Sex Offenders) Bill 2006   | Minister for Justice                | 28/04/06    |                |             | 5           |
| Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006   | Attorney General                    | 02/06/06    | 02/08/06       |             | 8,9         |
| Education Legislation Amendment Bill 2006  | Minister for Education and Training | 10/11/06    |                |             | 16          |
| Education Legislation Amendment (Staff) Bill 2006  | Minister for Education and Training | 09/05/06    | 23/05/06       |             | 6,8         |
| Fair Trading Amendment Bill 2006   | Minister for Fair Trading           | 02/06/06    | 07/06/06       |             | 8,12        |
| Local Government Amendment (Waste Removal Orders) Bill 2006  | Minister for Local Government       |             | 09/06/06       |             | 8,9         |
| Motor Accidents Compensation Amendment Bill 2006 and Motor Accidents (Lifetime Care and Support) Bill 2006                           | Minister for Commerce               | 24/03/06    | 26/04/06       |             | 3,5         |
| Smoke-free Environment Amendment Bill 2004   | Minister for Health                 | 05/11/05    | 12/01/06       |             | 2           |
| State Revenue Legislation Amendment Bill 2005  | Treasurer                           | 20/06/05    | 03/01/05       | 8           | 1           |
| Terrorism (Police Powers) Amendment (Preventative Detention) Bill 2005   | Attorney General                    | 25/11/05    | 16/05/06       | 15          | 7           |
| Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006  | Minister for Gaming and Racing      | 09/05/06    | 24/05/06       |             | 6,8         |

---

| <b>Bill</b>   | <b>Minister/Member</b>              | <b>Letter sent</b>   | <b>Reply received</b> | <b>Digest 2005</b> | <b>Digest 2006</b> |
|---|-------------------------------------|----------------------|-----------------------|--------------------|--------------------|
| Transport Administration Amendment (Public Transport Ticketing Corporation) Bill 2005 | Minister for Transport              | 25/11/05<br>28/04/06 | 05/04/06              | 15                 | 5                  |
| Vocational Education and Training Bill 2005   | Minister for Education and Training | 04/11/05             | 28/11/05              | 13                 | 1                  |
| Water Management Amendment Bill 2005  | Minister for Natural Resources      | 25/11/05             | 05/09/06              | 15                 | 11                 |

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

|   | (i)<br>Trespasses<br>on rights | (ii)<br>insufficiently<br>defined<br>powers | (iii)<br>non<br>reviewable<br>decisions | (iv)<br>delegates<br>powers | (v)<br>parliamentary<br>scrutiny |
|---|--------------------------------|---|---|-----------------------------|----------------------------------|
| Avalon Police Station (Public Ownership) Bill 2006*               | R                              |   |   |                             |                                  |
| Careel Bay Protection Bill 2006*                                  | R                              |   |   |                             |                                  |
| Channel 7 Former Epping Site Protection Bill 2006*                | R                              |   |   |                             |                                  |
| Children (Detention Centres) Amendment Bill 2006                  | R, C                           |   |   |                             |                                  |
| Community Protection (Closure of Illegal Brothels) Bill 2006*     | R                              |   |   |                             |                                  |
| Companion Animals Amendment Bill 2006                             | R                              |   |   |                             |                                  |
| Correctional Services Legislation Amendment Bill 2006             | R, C                           |   |   |                             |                                  |
| Crimes Amendment (Apprehended Violence) Bill 2006                 | R                              |   |   |                             |                                  |
| Crimes Amendment (Murder of Police Officers) Bill 2006*           | R                              |   |   |                             |                                  |
| Crimes and Courts Legislation Amendment Bill 2006                 | R                              |   |   |                             |                                  |
| Crimes (Appeal and Review) Amendment (DNA Review Panel) Bill 2006 | R, C                           | R, C  |   |                             |                                  |
| Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006  | R, C                           | R, C  |   |                             |                                  |
| Crimes (Forensic Procedures) Amendment Bill 2006                  | N                              |   |   |                             |                                  |
| Crimes Legislation Amendment (Gangs) Bill 2006                    | R, C                           |   |   |                             |                                  |
| Crimes (Sentencing Procedure) Amendment Bill 2006                 | R                              |   |   |                             |                                  |
| Crimes (Serious Sex Offenders) Bill 2006                          | R, C                           |   |   |                             |                                  |



|  | (i)<br>Trespasses<br>on rights | (ii)<br>insufficiently<br>defined<br>powers | (iii)<br>non<br>reviewable<br>decisions | (iv)<br>delegates<br>powers | (v)<br>parliamentary<br>scrutiny |
|--|--------------------------------|---|---|-----------------------------|----------------------------------|
| Criminal Procedure (Sexual and Other Offences) Bill 2006                         | N                              |   |   |                             |                                  |
| Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill 2006         | R, C                           |   |   |                             |                                  |
| Education Legislation Amendment Bill 2006  |                                |   |   | R, C                        |                                  |
| Education Legislation Amendment (Staff) Bill 2006                                | R, C                           | R, C  | R, C                                    | R, C                        | R, C                             |
| Electricity Supply Amendment (Greenhouse Gas Abatement Scheme) Bill 2006         |                                |   |   | R                           |                                  |
| Electricity Supply Amendment (Protection of Electricity Works) Bill 2006         | R                              |   |   |                             |                                  |
| Environmental Planning and Assessment Amendment Bill 2006                        | R                              |   |   |                             |                                  |
| Fair Trading Amendment Bill  | R, C                           |   |   |                             |                                  |
| Fair Trading Amendment (Motor Vehicle Insurance and Repair Industries) Bill 2006 |                                |   |   |                             | N                                |
| Fines Amendment (Payment of Victims Compensation Levies) Bill 2006               | N                              |   |   |                             |                                  |
| Fisheries Management Amendment Bill 2006   | R                              |   |   |                             |                                  |
| Health Legislation Amendment (Unregistered Health Practitioners) Bill 2006       | R                              |   |   |                             |                                  |
| Home Building Amendment (Statutory Warranties) Bill 2006                         | N                              |   |   |                             |                                  |
| Jury Amendment (Verdicts) Bill 2006  | R                              |   |   |                             |                                  |
| Law Enforcement (Controlled Operations) Amendment Bill 2006                      | R                              |   |   |                             |                                  |
| Law Enforcement Legislation Amendment (Public Safety) Bill 2005                  | R                              |   |   |                             |                                  |
| Local Government Amendment (Waste Removal Orders) Bill 2006                      | R                              |   | R                                       |                             |                                  |
| Motor Accidents (Lifetime Care and Support) Bill 2006                            | R, C                           |   | R, C                                    | R                           | R                                |

|  | (i)<br>Trespasses<br>on rights | (ii)<br>insufficiently<br>defined<br>powers | (iii)<br>non<br>reviewable<br>decisions | (iv)<br>delegates<br>powers | (v)<br>parliamentary<br>scrutiny |
|--|--------------------------------|---|---|-----------------------------|----------------------------------|
| Motor Accidents Compensation Amendment Bill 2006   | R, C                           |   | R, C                                    |                             |                                  |
| Motor Vehicles Repairs (Anti-steering) Bill 2006   | R                              |   |   |                             |                                  |
| Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006 | R                              |   |   |                             |                                  |
| Parliamentary Electorates and Elections Amendment Bill 2006                                      | R                              |   |   |                             |                                  |
| Pipelines Amendment Bill 2006  |                                |   | R                                       |                             | R                                |
| Police Amendment (Police Promotions) Bill 2006   |                                |   |   | R                           |                                  |
| Quarantine Station Preservation Trust Bill 2006*   |                                | R   |   |                             |                                  |
| Royal Rehabilitation Centre Sydney Site Protection Bill 2006*                                    | R                              |   |   |                             |                                  |
| Security Industry Amendment (Patron Protection) Bill 2006*                                       | R                              |   |   |                             |                                  |
| Threatened Species Conservation Amendment (Biodiversity Banking) Bill 2006                       |                                |   |   | R                           |                                  |
| Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006            |                                | R, C  |   |                             |                                  |
| Transport Administration Amendment (Travel Concession) Bill 2006                                 |                                |   |   | R                           |                                  |
| Trees (Disputes Between Neighbours) Bill 2006  | N                              |   |   |                             |                                  |
| University of Technology (Kuring-gai Campus) Bill 2006*  | R                              |   |   |                             |                                  |

**Key**

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

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

| <b>Regulation</b>  | <b>Minister/Correspondent</b>                 | <b>Letter sent</b>   | <b>Reply</b> | <b>Digest 2006</b> |
|--|---|----------------------|--------------|--------------------|
| Centennial Park and Moore Park Trust Regulation 2004   | Minister for Tourism and Sport and Recreation | 29/04/05             | 19/01/06     | 1                  |
| Companion Animals Amendment (Penalty Notices) Regulation 2005  | Minister for Local Government                 | 12/09/05             | 21/12/05     | 1                  |
| Conveyancing (Sale of Land) Amendment (Smoke Alarms) Bill 2006   | Minister for Lands                            | 25/08/06             | 27/10/06     | 16                 |
| Electricity (Consumer Safety) Regulation 2006  | Minister for Fair Trading                     | 28/04/06             | 20/06/06     | 9                  |
| Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Regulation 2005 | Minister for Planning                         | 12/09/05             | 24/12/06     | 3                  |
| Gaming Machine Amendment (Payment of Prize Money) Regulation 2006  | Minister for Gaming and Racing                | 25/08/06             | 10/10/06     | 14                 |
| Health Records and Information Privacy Regulation 2006   | Minister for Health                           | 28/04/06             | 27/06/06     | 9                  |
| Hunter Water (General) Regulation 2005   | Minister for Utilities                        | 04/11/05             | 09/01/06     | 1                  |
| Motor Accidents Compensation Regulation 2005   | Minister for Commerce                         | 28/04/06             | 24/07/06     | 9                  |
| Photo Card Regulation 2005 and Photo Card Amendment (Fee and Penalty Notice Offences) Regulation 2006      | Minister for Roads                            | 25/08/06             | 06/10/06     | 14                 |
| Protection of the Environment Operations (Waste) Regulation 2005   | Minister for the Environment                  | 04/11/05             | 29/11/05     | 1                  |
| Stock Diseases (General) Amendment Regulation 2005   | Minister for Primary Industries               | 12/09/05             | 07/02/06     | 1                  |
| Photo Card Regulation 2005   | Minister for Roads                            | 26/04/06<br>25/08/06 | 21/08/06     | 9                  |
| Road Transport (Driver Licensing) Amendment (Interlock Devices) Regulation 2003                            | Minister for Roads                            |                      | 03/08/06     | 9                  |
| Workers Compensation Amendment (Advertising) Regulation 2005   | Minister for Commerce                         | 12/09/05             | 28/11/05     | 1                  |