



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”.

Contents

Membership	ii
Guide to the Digest	iii
Conclusions	iv
PART ONE – BILLS	5
1. CITY OF SYDNEY AMENDMENT (RESTORING EQUAL VOTING RIGHTS) BILL 2017*	5
2. FINES AMENDMENT BILL 2017	6
3. MOTOR RACING LEGISLATION AMENDMENT (NEWCASTLE 500) BILL 2017	8
4. SPORTING VENUES AUTHORITIES AMENDMENT BILL 2017	9
5. TRANSPORT ADMINISTRATION AMENDMENT (INDEPENDENT TRANSPORT SAFETY REGULATOR) BILL 2017	10
APPENDIX ONE – FUNCTIONS OF THE COMMITTEE	12

Membership

CHAIR	Mr Michael Johnsen MP, Member for Upper Hunter
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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*.

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.

Conclusions

PART ONE – BILLS

1. CITY OF SYDNEY AMENDMENT (RESTORING EQUAL VOTING RIGHTS) BILL 2017*

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

2. FINES AMENDMENT BILL 2017

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

3. MOTOR RACING LEGISLATION AMENDMENT (NEWCASTLE 500) BILL 2017

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

4. SPORTING VENUES AUTHORITIES AMENDMENT BILL 2017

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

5. TRANSPORT ADMINISTRATION AMENDMENT (INDEPENDENT TRANSPORT SAFETY REGULATOR) BILL 2017

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

Commencement by proclamation

The Committee generally prefers legislation to commence on assent or a fixed date. The Committee notes that the Bill seeks to abolish the functions of the Independent Transport Safety Regulator and transfer those functions to the National Rail Safety Regulator. As such, the Committee acknowledges that some flexibility with regard to the commencement date of the Bill may be desirable to ensure the appropriate administrative arrangements to support the transfer of functions can be put in place. The Committee therefore makes no further comment.

Part One – Bills

1. City of Sydney Amendment (Restoring Equal Voting Rights) Bill 2017*

Date introduced	16 February 2017
House introduced	Legislative Assembly
Member responsible	Mr Luke Foley MP
	*Private Member's Bill

PURPOSE AND DESCRIPTION

1. The object of this Bill is to restore the system of business enrolment and voting at elections for the council of the City of Sydney that existed before the enactment of the *City of Sydney Amendment (Elections) Act 2014*.

BACKGROUND

2. In 2014, amendments were made to the *City of Sydney Act 1988* that gave every business that pays rates in the City of Sydney two votes, and made it compulsory for them to enrol and vote. This Bill reverses those amendments and reasserts the *City of Sydney Act 1988* as it was in effect immediately prior to the 2014 amendments.

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. Fines Amendment Bill 2017

Date introduced	14 February 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Victor Dominello MP
Portfolio	Finance, Services and Property

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Fines Act 1996* to allow the Commissioner of Fines Administration:
 - (a) to take civil enforcement action against a fine defaulter who is an individual without first suspending or cancelling the fine defaulter's driver licence or vehicle registration, and
 - (b) to take enforcement action to recover an amount payable under a confirmed order for restitution made by the Commissioner of Victims Rights against an offender or another person (a **restitution amount**).
2. The Bill also makes amendments to the *Victims Rights and Support Act 2013* related to the enforcement and recovery of restitution amounts by the Commissioner of Fines Administration.

BACKGROUND

3. The Minister, in his Second Reading Speech, explains that the main purpose of the Bill is to transfer the responsibility for enforcing victims' restitution debts to the Commissioner of Fines Administration.
4. The Bill has been developed following a 12-month trial by the Office of State Revenue of enforcing restitution orders as court fines. A restitution order under the *Victims Rights and Support Act 2013* enables all or some of the compensation paid to a victim of violent crime to be recovered from the offender.
5. The Minister explains that, at present, Victims Services can only enforce these orders as a judgment debt through the court. However, this is difficult as offenders often have limited capacity to satisfy the debt.
6. As part of the trial, the Office of State Revenue enforced 1,000 restitution orders using the same enforcement measures available for fines. At the end of the trial, 70 per cent of the debts were paid or under management through an instalment payment arrangement or work and development order. The Bill seeks to permanently transfer the recovery of restitution debts to the Office of State Revenue.
7. The Bill also makes other amendments to the *Fines Act 1996* which are not related to restitution orders to enable the Office of State Revenue to better tailor enforcement action to individual circumstances.

ISSUES CONSIDERED BY COMMITTEE

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

3. Motor Racing Legislation Amendment (Newcastle 500) Bill 2017

Date introduced	15 February 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Adam Marshall MP
Portfolio	Tourism and Major Events

PURPOSE AND DESCRIPTION

1. The object of this Bill is to facilitate the conduct in New South Wales of an annual motor race, and its associated races and events, in the City of Newcastle local government area as an alternative to conducting the race at Sydney Olympic Park in Homebush.

BACKGROUND

2. This year, the Supercars race is to be held in Newcastle for the first time. The inaugural event will take place on 24-26 November 2017 and will be held every year thereafter until 2022.
3. It is anticipated that the event will attract more than 81,000 domestic and international visitors, contribute more than \$57 million in the Hunter region economy, and compel infrastructure upgrades that will provide legacy benefits for future use.

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. Sporting Venues Authorities Amendment Bill 2017

Date introduced	16 February 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Stuart Ayres MP
Portfolio	Sport

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Sporting Venues Authorities Act 2008* to enable assets, rights and liabilities relating to Stadium Australia to be transferred from certain related companies and the trustee of the Stadium Australia Trust to Venues NSW. Shares in the parent company, Stadium Holdings Pty Ltd, are currently held by the State Sporting Venues Authority.

BACKGROUND

2. In his Second Reading Speech, the Minister explained that the purpose of the Bill is to give the Government full control over the Stadium Australia business through Venues NSW. The Government purchased the leasehold rights for Stadium Australia in July 2016. All major stadia are now government owned and controlled including ANZ Stadium, Allianz Stadium, the Sydney Cricket Ground, Western Sydney Stadium, McDonald Jones Stadium and WIN Stadium.
3. The Minister advised that the proposed amendments will also consolidate the governance structures for the stadia network from three entities to two. The Minister further advised that this will provide a number of advantages for the state including economic benefits, attracting visitors, enhancement of sporting outcomes and community and social benefits.

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. Transport Administration Amendment (Independent Transport Safety Regulator) Bill 2017

Date introduced	14 February 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Andrew Constance MP
Portfolio	Transport and Infrastructure

PURPOSE AND DESCRIPTION

1. The object of this Bill is to abolish the Independent Transport Safety Regulator, which is a New South Wales statutory corporation that provides specific functions and services under delegation from the Office of the National Rail Safety Regulator, a body established under the *Rail Safety National Law (NSW)* and corresponding laws of other participating jurisdictions.
2. The functions that the Independent Transport Safety Regulator currently provides include operating the New South Wales branch office of the Office of the National Rail Safety Regulator and performing a range of regulatory and compliance activities. Those functions will, in the future, be undertaken directly by the Office of the National Rail Safety Regulator.
3. On its abolition, the assets, rights and liabilities of the Independent Transport Safety Regulator will be transferred to the Crown. Arrangements are being made for the ongoing employment of certain existing employees of the abolished body by the Office of the National Rail Safety Regulator, including arrangements relating to the maintenance of the accrued rights of those employees.

BACKGROUND

4. In his Second Reading Speech, the Minister explained that in 2011, New South Wales and other jurisdictions agreed to set up a national rail safety regulatory scheme under a single regulator. In 2012, New South Wales adopted the *Rail Safety National Law* to join the national scheme.
5. The Independent Transport Safety Regulator currently operates the New South Wales office for the National Rail Safety Regulator through a service level agreement. However, in 2014, an independent review of rail safety regulation in New South Wales recommended abolishing the Independent Transport Safety Regulator and transferring rail safety functions to the national regulator. The Bill seeks to implement these arrangements.
6. The Minister says the changes will provide clearer accountability on rail safety oversight:

It will create a single, nationally consistent rail safety culture and deliver a more efficient use of funding and resources by reducing the duplication of functions.

ISSUES CONSIDERED BY COMMITTEE

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

Commencement by proclamation

7. Clause 2 of the Bill provides that the Act commences on a day or days to be appointed by proclamation. This delegates to the Executive the power to commence the Act on a day or days of its choosing.

The Committee generally prefers legislation to commence on assent or a fixed date. The Committee notes that the Bill seeks to abolish the functions of the Independent Transport Safety Regulator and transfer those functions to the National Rail Safety Regulator. As such, the Committee acknowledges that some flexibility with regard to the commencement date of the Bill may be desirable to ensure the appropriate administrative arrangements to support the transfer of functions can be put in place. The Committee therefore makes no further comment.

Appendix One – 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
- (a) 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.