

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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*Sitting period
2 to 5 August 2011*

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on council@parliament.nsw.gov.au.

Death of former member

The President reported to the House the death of the Hon James Miltiadis Samios AM MBE, a member of the House from 1984 to 2003.

Members and officers stood as a mark of respect.

Statement by the President – Tragedy in Norway

The President informed the House that, on behalf of the members of the Legislative Council and the people of New South Wales, he had sent a message of condolence to the Ambassador of the Royal Norwegian Embassy expressing sympathy to the relatives and friends of the people who were killed or injured by the recent bomb attack in Oslo and the shootings at Utoya island.

Members and officers stood as a mark of respect.

Sitting day pattern and time for questions

On 2 August 2011, the Leader of the House, the Hon Duncan Gay, made a statement concerning a change to the Council sitting day pattern for the remainder of the current session, whereby the House will now sit Tuesday to Friday each sitting week. Mr Foley also addressed the House. In addition, the House agreed to amend the sessional orders to allow for the House to rise earlier on Fridays if desired by bringing Question Time forward to 2.00pm; the Minister to move the adjournment motion at 3.00pm or for Government business to take precedence from 3.00pm.

Sessional order – time limits to debate on Government bills

On 2 August 2011, Mr Gay moved a sessional order applying time limits to debate on government bills. Mr Gay noted that debate on government bills is one of the few types of business to which time limits do not apply.

The Government argued that exceedingly long speeches add little to the substance of debate and often deprive other members of the opportunity to contribute. Mr Gay referred to the recent debate on the Industrial Relations Amendment (Public Sector Conditions of Employment)

Bill 2011, during which the longest and second longest unbroken speeches in the Council occurred. In support of the Government's argument, members pointed to the time limits on debates that apply in other parliaments in Australia and around the world.

The Opposition and the Greens opposed the motion on the grounds that it would impose an unnecessary restriction on debate that would erode both the traditional right of unfettered free speech in the House and the role of the House in scrutinising government action. They also argued that the standing orders currently provide adequate provision to limit debate in appropriate circumstances.

Sixteen members spoke to the motion, which was agreed to on division (21:18).

Government business

Note: Government business includes Government bills introduced or carried by ministers in the Council.

Summary Offences Amendment (Intoxicated and Disorderly Conduct) Bill 2011

Summary: The bill amends the Summary Offences Act 1988 by making it an offence for a person who has been given a move on direction by a police officer for being intoxicated and disorderly in a public place, to be intoxicated and disorderly in that or another public place at any time within six hours after the direction is given.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gallacher) stated that the bill is part of the Government's election commitment to address alcohol related violence and anti-social behaviour. Mr Gallacher advised that in addition to the safeguards built into the bill, there is also a provision that after 12 months the Ombudsman must prepare a report on the issuing of penalty notices in relation to the new offence.

The Christian Democratic Party supported the bill. The Opposition and the Greens opposed the bill on the grounds that adequate provisions for police to deal with people who did not comply with move on directions

already existed on the statute books; that the bill would target vulnerable and marginal members of society; and that moves to criminalise drunkenness or intoxication had historically failed as they disproportionately affected disadvantaged groups in society and served to entrench them in the criminal justice system.

The second reading was agreed to (Division 19:18).

In the committee stage the Greens moved five amendments, which were supported by the Opposition, to provide that a person issued with a move on direction is given a reasonable time to comply with the direction. The Government argued that the amendments would add an unnecessary level of complexity. The amendments were negated (Division 18:19).

The bill was reported to the House, read a third time and returned to the Assembly without amendment.

Disallowance of delegated legislation

Note: The Legislative Council may disallow pieces of delegated legislation such as statutory rules and instruments under Part 6 of the Interpretation Act 1987 or under the provisions of the primary act.

Disallowance of the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 (Ms Cotsis, Australian Labor Party)

Summary: The regulation is made under the *Industrial Relations Act 1996* as amended by the Industrial Relations Amendment (Public Sector Conditions of Employment) Act 2011. The matters set out in the regulation are declared, for the purposes of section 146C of the Act, to be aspects of government policy that are to be given effect to by the Industrial Relations Commission when making or varying awards or orders.

As foreshadowed by the Government during the lengthy and intense debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011, the regulation declares that public sector employees may be awarded increases in remuneration or other conditions of employment that do not increase employee-related costs by more than 2.5% per annum, and only more than 2.5% if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs. The regulation sets guaranteed minimum conditions of employment relating to unpaid parental leave, paid parental leave, employer payments to employee superannuation schemes or funds, long service or extended leave, annual leave, sick leave, public holiday entitlements and part-time work entitlements, which cannot be reduced for the purposes of achieving employee-related cost savings. Any existing conditions of employment in excess of the guaranteed minimum conditions of employment may only be reduced with the agreement of the relevant parties in the proceedings.

Proceedings: The House agreed to the disallowance motion being considered forthwith.

During debate on the motion many of the issues raised during the debate on the bill were revisited. The Opposition and the Greens supported the motion arguing that as the regulation guarantees only eight

minimum conditions of employment, a number of hard won previously guaranteed conditions of employment, such as conditions of employment that enable and encourage people with disabilities to participate in the workforce, could now be subject to negation. The Opposition and the Greens argued that the regulation unfairly restricts the potential for public sector workers to achieve reasonable wage increases, as any employee related cost saving must be in addition to any whole of government savings measures, and because the 2.5% threshold applies not only to wage increases but also to other conditions of employment.

The Government opposed the disallowance motion, arguing that considerable detail of the proposed regulation had been provided and discussed during the debate on the bill. Mr Pearce, the Minister for Finance and Services, reiterated the Government's position with respect to its public sector wages policy and stated that the regulation clearly details the continuing role of the Industrial Relations Commission in assisting parties in the public sector to achieve sustainable industrial relations outcomes.

The motion was negated (Division 18:20) and the regulation remains in force.

Private members' business

Note: Private members' business is business moved by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bills

Truth in Labelling (Free-Range Eggs) Bill 2011 (Dr Kaye, The Greens)

Summary: The bill regulates the labelling of free-range, barn or cage eggs for sale. The bill makes it an offence to advertise, package or label eggs that are for sale as free-range, or barn eggs, use images or other means to suggest that the eggs are free-range, or barn eggs, unless the requirements set out in the bill with respect to the eggs and the laying fowl that produce the eggs are complied with. The bill also requires eggs that are not free range or barn eggs to be labelled as cage eggs.

Proceedings: Bill introduced and read a first time. In his second reading speech Dr Kaye said many consumers are repelled by the treatment of hens in the cage egg industry and wish to express their ethical values through their purchase decisions. Dr Kaye argued that the bill is necessary to counter the unscrupulous actions of some cage bird farmers who misleadingly label their products to suggest a level of animal welfare that does not exist. Dr Kaye noted that the bill is not intended to phase out the cage bird industry. At the conclusion of his speech, debate was adjourned for five calendar days.

Local Government Amendment (Local Democracy – Ward Representation Reform) Bill 2011 (Mr Shoebridge, The Greens)

Summary: The bill amends the Local Government Act 1993 to provide that each council for an area that is

divided into wards must have at least three councillors for each ward.

Proceedings: Bill introduced and read a first time. In speaking to the objects of the bill during the second reading, Mr Shoebridge advised that the bill will ensure that local governments are truly representative, effective and accountable. He argued that the current process in some councils of having two-member wards was undemocratic, could lead to one-party dominance and provided the potential for corruption and mismanagement. Mr Shoebridge commended the bill as being straightforward and direct and that it will substantially improve the arrangements in a number of councils in NSW. At the conclusion of Mr Shoebridge's speech, debate was adjourned for five calendar days.

Education Amendment (Ethics Classes Repeal) Bill 2011 (Revd Mr Nile, Christian Democratic Party)

Summary: The bill amends the Education Act 1990 to repeal the provision inserted by the Education Amendment (Ethics) Act 2010 allowing special education in ethics as a secular alternative to special religious education at government schools.

Proceedings: Standing and sessional orders were suspended to allow consideration of the bill forthwith (Division 17:14). The bill was introduced and read a first time. In his second reading speech, Revd Nile said the object of the bill is to amend the Education Act 1990 to repeal the provision inserted by the Education Amendment (Ethics) Act 2010 which allows special education in ethics as a secular alternative to specialist religious education at government schools. Revd Nile noted the effect of the repeal will be delayed until the beginning of the next school year immediately following the commencement of the Act. He argued that the ethics course offered was based on philosophical relativism, which was inappropriate for school curricula. He noted that the timing of the bill would allow time for school principals to arrange quality educational opportunities for children who are withdrawn from scripture classes in 2012 by their parents. Debate was adjourned to 16 September 2011 (Division 17:14).

Threatened Species Conservation Amendment (Ecological Consultants Accreditation Scheme) Bill (Ms Faehrmann, The Greens)

Summary: The bill amends the Threatened Species Conservation Act 1995 to provide for an accreditation scheme for ecological consultants who prepare or carry out certain assessments, impact statements or surveys under the principal Act, the Fisheries Management Act 1994 or the Environmental Planning and Assessment Act 1979. The bill also makes it an offence for a person to carry out an ecological assessment without the required accreditation.

Proceedings: Bill introduced and read a first time. Ms Faehrmann argued that the statutory accreditation of ecological consultants will offer a more transparent and accountable process than any internal, voluntary scheme administered by one of several professional associations. Ms Faehrmann noted that over the years the community

had on occasion been let down by defective practices of ecological consultants. The community had lacked appropriate mechanisms for lodging complaints to be reviewed impartially and where necessary for ecological consultants to be disciplined and/or the future practice conditioned.

Ms Faehrmann observed that from its inception the Threatened Species Conservation Act intended that there be regulation of ecological consultants who assess the ecological value of land. Proposed section 113 will empower the Director-General of the relevant department to institute an accreditation scheme for suitably qualified and experienced consultants. Ms Faehrmann said that an external accreditation body will accord professional recognition, setup and uphold standards and strengthen the integrity of ecological assessment in NSW. Debate on the second reading was interrupted for Questions.

Motions

International Day of Mourning for Workers (Ms Cotsis, Australian Labor Party)

Summary: The motion noted that 28 April was the International Day of Mourning for Workers, a day to mourn, honour and pay tribute to workers killed at or as a consequence of work. The motion acknowledged the impact of workplace illness or fatality and called for a collaborative approach to workplace safety.

Proceedings: Debate on the motion resumed. During debate members focused on the number of mining industry accidents worldwide that result in the deaths of workers. In Australia each year about 440 workers are killed in work related accidents and NSW statistics show that workplace injuries are increasing and showing an upward trend. Members referred to the 2011 slogan for the day of mourning, 'Remember the dead, fight for the living'. Debate on the motion concluded and was agreed to.

Motions taken as formal business

The following items of private members' business were agreed to as formal business without amendment or debate:

- (1) Federal Budget (Mr Moselmane);
- (2) Education Week 2011 (Ms Fazio);
- (3) GPSC No 3 reference (Ms Faehrmann)
- (4) Arncliffe Scots Junior Rugby League Football Club (Mr Moselmane)
- (5) Ramadan (Mr Moselmane)
- (6) Australian Lebanese Chamber of Commerce (Mr Moselmane)
- (7) Sheikul Islam-Professor Mohamed Qadri (Mr Moselmane)
- (8) Centenary of St Francis Xavier School (Mr Moselmane)
- (9) Daffodil Day (Ms Ficarra)
- (10) Penrith Panthers Women in League (Ms Ficarra)
- (11) Australian Diamonds netball team (Ms Ficarra)

Orders for papers

Note: The Council has a common law power to order the Government to produce State papers.

Order made

- (1) **Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 (Mr Searle):** The order relates to all legal advice provided in relation to the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. Due: 18 August 2011.

Returns to order

- (1) **Mental Health Inquiry process:** received 5 July 2011, one box public, one box privileged.
- (2) **Development of KFC restaurant:** received 7 July 2011, one box public.

Petitions received

- (1) La Perouse Museum – 11 signatures (presented The President)

Committee activities

Committee references

Standing Committee on State Development: The Chair (Mr Colless) informed the House that on 7 July 2011, the Committee resolved to inquire into the factors economic and social development in central western NSW.

Standing Committee on Social Issues: The Chair (Mr Blair) informed the House that on 25 July 2011, the Committee resolved to inquire into domestic violence trends and issues in NSW.

General Purpose Standing Committee No. 3: Reference from House on Friday 5 June 2011 to inquire into rail infrastructure project costings in NSW and to report by 11 November 2011.

Committee membership

The President informed the House of the following elections of Council members to positions of Chair or Deputy Chair of joint parliamentary committees:

Committee on the Office of the Ombudsman and the Police Integrity Commission: Ms Cusack (Chair).

Joint Standing Committee on Electoral Matters: Mr Khan (Chair), Mr Borsak (Deputy Chair).

Joint Standing Committee on Road Safety: Mr Colless (Deputy Chair).

Joint Select Committee on the Parliamentary Budget Office: Mrs Maclaren-Jones (Deputy Chair).

Committee report debated

Standing Committee on Social Issues: The House concluded the take-note debate on Report No. 44 entitled 'Inquiry into services provided or funded by the Department of Ageing, Disability and Home Care', November 2010.

Reports tabled

Auditor General: Performance Audit report: 'Improving Road Safety: Speed cameras – Roads and Traffic Authority', 27 July 2011.

Parliamentary Ethics Adviser: Annual report for the year ended 30 June 2011.

NSW Commission for Children and Young People: 'Result of an audit of child-related conduct declarations', 3 August 2011.

Adjournment debate

Tuesday 2 August 2011

Centre for effective reading (Mr Khan); Srebrenica massacre anniversary (Mr Secord); Norway killings (Revd Mr Nile); Global warming (Dr Phelps); National Homeless Persons Week (Mr Searle); Carbon price (Dr Kaye).

Wednesday 3 August 2011

Zahra Mohammad Farag (Mr Searle); Mothersafe Program (Mr Green); Northern Tablelands (Mrs Mitchell); Regional employment (Ms Voltz); Dental health services (Ms Fachrmann); Live cattle exports (Mr Mason-Cox).

Thursday 4 August 2011

Regional economic development (Mr Buckingham); Norway killings (Mr Moselmane); Operation Restore Hope (Ms Ficarra); Conservation hunting in national parks (Mr Brown); National Disability Insurance Scheme campaign (Mr Veitch); Genetically modified wheat crop trials (Mr McDonald); Organ donation (Ms Fazio).

Friday 5 August 2011

Government performance (Ms Cusack); Computer game classification (Mr Donnelly); Marrickville Council (Mr Borsak); Death of Margaret Hannah Olley AC AO (Ms McLaren-Jones); Local Government Week (Ms Cotsis); National Homelessness Week (Ms Barhan); Jeans for Genes Day (Mr Blair).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We're particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



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