

SUBORDINATE LEGISLATION AMENDMENT BILL 2009

SECOND READING SPEECH

Mr Speaker

The Subordinate Legislation Amendment Bill 2009 amends the Subordinate Legislation Act 1992.

The objective of the Subordinate Legislation Act is to ensure that only effective, efficient and necessary subordinate legislation is made and that, in cases where the legislation imposes a cost or burden on the Tasmanian community, it is shown to be justified as being in the public interest.

Mr Speaker, a review of the Act has been undertaken by the Department of Treasury and Finance with the intent of reducing unnecessary administrative burdens, whilst ensuring that the Act continues to provide a scrutiny process for new and amending subordinate legislation.

The Parliamentary Standing Committee on Subordinate Legislation, the Office of Parliamentary Counsel and all State Government agencies and government businesses were consulted during the course of the review.

As a result of the review, the Bill makes a number of amendments to the Act.

Mr Speaker, the Act provides that all subordinate legislation is repealed after ten years. This has been effective in ensuring that only necessary subordinate legislation remains on the statute book.

However, there is no provision in the Act to extend the repeal date beyond ten years, which is necessary in some cases. The only mechanism is a separate Act, as members of the House are aware as each year a Bill is introduced into the House for this purpose.

This process imposes an unnecessary administrative burden on relevant agencies, on the Office of Parliamentary Counsel and on the Parliament.

To address this issue, this Bill allows the repeal date for subordinate legislation to be extended by way of an Order by the governor, for a period of up to two years, but only under certain, strictly defined, conditions.

The Bill allows an extension of the repeal date if there are factors outside the control of the responsible agency, or factors that could not have been reasonably foreseen, that make it highly desirable for the subordinate legislation to continue and not be remade or repealed.

An example is where the relevant legislation is subject to a national or Tasmanian review and it would be inefficient to remake the subordinate legislation prior to the completion of this review.

The Bill also allows an extension, where there are justifiable reasons for extending the legislation and the agency advises that it does not intend to remake that subordinate legislation.

Mr Speaker, the conditions are strictly defined in the Bill and the Treasury's approval is required before an order can be made to extend the repeal date. This will ensure that approval cannot be given except in genuine cases. The majority of subordinate legislation will therefore continue to be repealed after ten years.

The Act requires an agency to prepare a regulatory impact statement and undertake consultation, except where exemptions are granted. This process can be time consuming and resource intensive. There currently exists some duplication between this process and the statutory public consultation requirements in some other legislation.

For example, the Living Marine Resources Management Act 1995 requires considerable consultation in respect of any proposed amendments to subordinate legislation made under the Act.

Therefore, this Bill provides that a regulatory impact statement is not required if proposed subordinate legislation has previously been subject to consultation under the Living Marine Resources Management Act 1995, the Environment Management and Pollution Control Act 1994 or any other Act as specified by an Order, provided that the other requirements of the Subordinate Legislation Act are met.

Mr Speaker, under the Act a regulatory impact statement is currently not required for subordinate legislation that is substantially uniform or complementary with legislation of the Australian Government, or another state or territory.

However, this has the potential to undermine the objectives of the Act, as no assessment of the costs and benefits is required in that other jurisdiction before an exemption is granted.

Accordingly, this Bill provides that this exemption only applies if an assessment of the costs and benefits was undertaken in another jurisdiction, which substantially meets the requirements of a regulatory impact statement under the Act.

Mr Speaker, the Act does not currently require agencies to provide advice to the Parliamentary Standing Committee on Subordinate Legislation in respect of any significant changes that have been made to the final version of subordinate legislation as a consequence of the regulatory impact statement public consultation process.

The Committee is required to be provided with comments and submissions, but may not know the final changes to the draft subordinate legislation following the consultation.

This is useful information for the Committee as it examines proposed subordinate legislation.

This Bill therefore provides that the Committee must be given an explanation of any significant changes made to the subordinate legislation following the regulatory impact statement process.

Mr Speaker, these amendments to the Act will assist agencies to manage the State's subordinate legislation and reduce the administrative burden placed on agencies, while ensuring that the objectives of the Act continue to be met.

Mr Speaker, the amendments are consistent with the Government's commitment to legislative reform by ensuring that only effective and efficient subordinate legislation is made.

Mr Speaker, I commend the Bill to the House.