

## **Repeal of Regulations Postponement Bill (No.2) 2009**

### **SECOND READING SPEECH**

Mr Speaker, I move that the Bill be now read a second time.

The purpose of this Bill is to ensure continuation of administration of legislation in cases where it has not been practicable to remake the relevant subordinate legislation before it is due to expire.

Members will recall that in late August another such Bill was introduced, which passed in early September. It dealt with three related sets of Regulations, one of which would otherwise have expired in October. It was always intended, however, that there would be a later Bill to deal with the more normal situation involving Regulations that were due to expire at the end of the year.

This is standard, annual business of government. Each year there are legitimate reasons for some subordinate legislation not to be repealed or re-made according to the 10-year schedule of the *Subordinate Legislation Act 1992*, or to need further extension after a previous repeal postponement.

I am pleased to note, however, that although this is the second Bill of this type to be debated in 2009, this year we have seen only 8

sets of Regulations requiring repeal postponement, well down from 16 in both 2005 and 2006. As always intended, only exceptional circumstances now create a need for extension.

I also note, as no doubt members will recall, that this year has seen an attempt to reduce the need for repeal postponement Bills by reintroducing provision for an administrative means of postponing expiry. However, that Bill has been effectively stalled in the Upper House, so all postponements must continue to be effected by legislation.

Bill No.2 is intended to extend the expiry date of five sets of Regulations to 1 January 2011 – and I note, Mr Speaker, that this includes a set of Regulations that I will be moving to add by amendment in Committee, as I explain at the end of this speech:

- *The Agricultural and Veterinary Chemicals (Control of Use) Regulations 1996*

These regulations were first extended by the 2006 Act. As has been noted in previous years, the difficulty has arisen in amending the Regulations to take account of a review of aerial spraying provisions by the Agricultural, Silvicultural and

Veterinary Chemicals Council. Tasmania is attempting to develop regulatory provisions that meet the State's unique circumstances. These include the very close relationship between residential land uses and farming (including orchards, vineyards and so on) all round the State. This also engenders a high level of community interest in chemical-related issues.

There is a process under way towards a national system, working through the Primary Industries Ministerial Council on behalf of COAG. We are confident that any State arrangements will be consistent with a national agreement. But such an agreement is not likely for at least another year and is not expected to adequately address the State's circumstances. There thus appears to be no value in delaying yet further to await that national agreement.

So far this year a number of complex issues have been worked through, in terms of research and, in particular, stakeholder consultation. This has involved both the Department and me, as Minister.

The result is that drafting is now beginning on new Regulations, which will themselves be the subject of final consultation. It is also likely that at least some aspects of the Regulations will require a regulation impact statement, a process that involves public consultation. Thus there is likely to be significant and public progress by the end of the year, but it is unlikely that new Regulations can be in place by then.

- *The Workplace Health and Safety Regulations 1998*

The Workplace Relations Ministerial Council has identified occupational health and safety (OHS) as a priority area for national reform. One of the key elements of the OHS reform agenda is harmonisation – moving towards one set of national OHS laws.

The harmonisation of OHS legislation aims to reduce the incidence of workplace death, injury and disease right across Australia. The timetable for this process was agreed earlier in 2009, and this has meant Tasmania no longer sees value in remaking the current Regulations.

Safe Work Australia is responsible for developing national model OHS legislation. The model legislation will consist of a principal OHS Act, supported by model regulations and model codes of practice that can be readily adopted around Australia. This requires each State and Territory to pass its own laws that mirror the model OHS laws, and to adopt them by December 2011.

Prior to this date there will be numerous phases of seeking comment from the public on the national draft legislation and it is considered that changing the Tasmanian OHS regulations during this time will cause unnecessary confusion. In addition, given the obligation to introduce the national laws into Tasmania by the end of 2011, there is little to be gained by remaking the *Workplace Health and Safety Regulations 1998*.

The national timetable means that the current Regulations will need to be extended one further time, to take them through calendar 2011.

Instructions have nonetheless been provided to the Office of Parliamentary Counsel to prepare an updated set of these Regulations. They may be used either if the national

implementation date cannot be met, or if the changes are considered necessary by stakeholders and they value add to the nationally agreed OHS regulatory framework.

- The *Fair Trading (Code of Practice for Motor Vehicle Traders) Regulations 1996*

These Regulations have now been extended a number of times. Consumer Affairs and Fair Trading has been developing primary legislation to replace the Code. The Motor Dealers Bill 2009 incorporates a provision to extend the currency of the Code into 2010. Development of the Bill has been delayed by extended consultation, and ongoing difficulties in obtaining stakeholder agreement to the details.

While the Bill's preparation is at an advanced stage it now seems very unlikely that final consultation will be completed in time to allow passage of the Bill through Parliament this year. Without the Bill's provision to extend the Code, the Code would thus cease to apply on 2 January 2010, unless the Regulations were extended.

The Motor Dealers Bill 2009 is expected to take full effect from 1 July 2010, with a new motor trader licensing regime operational from that date. That regime will supersede the Code.

- The *Wildlife Regulations 1999*

These Regulations – which operate under the *Nature Conservation Act 2002* – are due to expire on 22 December 2009.

The Office of Parliamentary Counsel has been drafting new Regulations for some time, but due to the large volume of work being undertaken by the OPC there has been a delay in the drafting of the consultation version. The effect of the delay has been to reduce the time available for stakeholder consultation.

The Regulations are essential to the control of activities involving wildlife, in a compliance sense. They are also of importance to a diverse range of stakeholders, with direct relevance to those who undertake both commercial and recreational activities involving Tasmania's wildlife. This includes hunters, researchers, commercial skin and meat processors, the Aboriginal

community, wildlife park operators and deer farmers. It is therefore important that sufficient time is available in order to undertake consultation effectively.

Every effort is still being made to ensure the Regulations are re-made by the December deadline. However, due to drafting delays and a desire to ensure effective consultation with a broad stakeholder group, it is no longer realistic to assume that this deadline can be met. An extension of the Regulations is therefore required, to reflect this likelihood.

- *The Dangerous Goods (Road and Rail Transport) Regulations 1998*

Mr Speaker, As I have foreshadowed, a very late development requires me to seek to have a further set of Regulations added. The circumstance arises from the pressures on the legislative program and the recognition that a particular Bill might no longer pass in this Session.

I will therefore be moving an amendment in Committee, to add these Regulations to the Schedule.



The *Dangerous Goods (Road and Rail Transport) Regulations 1998* will expire on 1 January 2010, having been extended in last year's Repeal Postponement Act.

New Regulations have already been drafted. They are based on national model Regulations and were released for public comment earlier this year. They are in fact ready to be made, except that there is no head of power.

Making of the Regulations is dependent upon Parliament first considering and passing the *Dangerous Goods (Road and Rail Transport) Bill 2009*, which is currently before Parliament. An extension of the current Regulations is sought to insure against the risk that there will now be insufficient time to consider and pass the Bill.

Mr Speaker, I commend the Bill to the House.