

Repeal of Regulations Postponement Bill 2009

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

The purpose of this Bill is to postpone until 1 January 2011 the automatic repeal of the *Rail Safety Regulations 1999*, the *Passenger Transport Regulations 2000* and the *Passenger Transport (Review of Decisions) Regulations 2000*.

Mr Speaker, under the provisions of the *Subordinate Legislation Act 1992*, all subordinate legislation expires on the 10th anniversary of the date of its Gazettal. The extension of their repeal dates under this Bill is to ensure that they can continue in operation past those dates. In each case it is proposed to extend them until the end of 2010 rather than have individual dates applied to them.

Until 2004 it was possible under the Act for the repeal date to be deferred for one year by an Administrative Order and any longer deferral needed to be put to Parliament for approval. That provision has now ceased to operate and accordingly all deferral of expiry dates of subordinate legislation need to be approved by Parliament.

Mr Speaker the *Rail Safety Regulations 1999* are due to expire on 13 October 2009. The life of these regulations has not previously been extended. The regulations prescribe standard conditions for accreditation, establish a scheme for dispute resolution in relation to accreditation decisions, the procedures for drug and alcohol testing of railway employees, and other matters for the purposes of the administration of the *Rail Safety Act 1997*.

Under the Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport, the National Transport Commission (NTC) was given a specific task to develop a framework to improve and strengthen the co-

regulatory system for rail safety, including the application of mutual recognition. In accordance with this requirement the NTC has developed nationally consistent model legislation for rail safety to be enacted by all States and Territories.

The drafting of a new rail Safety Act based on the NTC's model legislation is well advanced and it is anticipated that a Bill for the new Act will be introduced later this Session. However, it is unlikely the Bill can be passed and enacted in sufficient time for the necessary regulations to be finalised and gazetted in time to commence the Act before the current regulations expire on 20 October 2009.

As the current regulations will no longer be required on the commencement of the new Act it would be an unnecessary use of resources for the Department of Infrastructure, Energy and Resources and the already scarce drafting resources of the Office of Parliamentary Counsel to review and remake these regulations when they would only be in place for a short time before having to be replaced.

Mr Speaker, the *Passenger Transport Regulations 2000* and *Passenger Transport (Review of Decisions) Regulations 2000* are due to expire on 26 June 2010. The life of the regulations has not been previously extended.

The *Passenger Transport Act 1997* under which these regulations are made is currently being reviewed. The review has been prompted by considerable difficulties identified with the administration of the current Act which is unclear in its intent, and overly complex.

A key recommendation of the review is that the current Act be replaced by a new Act, which is expected to be drafted in time for introduction in the Autumn or Budget Session of Parliament 2010. However, due to the magnitude of the drafting task involved in developing a new Act, the preliminary advice of the Office of Parliamentary Counsel is that this will entail at least

six months work. Accordingly, given the extensive consultation that will need to be undertaken with stakeholders it may not be possible for the necessary regulations for the administration of the new Act to be finalised and gazetted before the current regulations expire on 26 June 2010. As is the case with the Rail Safety Regulations it would be an unnecessary use of resources for the Department of Infrastructure, Energy and Resources and the the Office of Parliamentary Counsel to review and remake these regulations when they would only be in place for a short time before having to be replaced.

Mr Speaker, in summary the ability to defer the automatic repeal of regulations when necessary is essential for the effective operation of government and administration of legislation. The making of interim regulations to take effect between the automatic repeal of one set of regulations and the commencement of new regulations often under revised or new Acts is an unnecessary waste of resources. Therefore postponing the repeal of these regulations is an appropriate course of action.

I commend this Bill to the House.