

Legislative Council

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SUBORDINATE LEGISLATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. A. BRESSINGTON (21:52):

I rise to indicate that I will be supporting the Hon. Robert Brokenshire's Subordinate Legislation (Miscellaneous) Amendment Bill 2010, which seeks to give this parliament the powers to amend regulations tabled by the relevant minister, in addition to its current power to simply disallow the regulation as a whole.

As the honourable member indicated, this bill is identical in almost every way to that introduced by the Hon. Rob Lawson in 2009. I have made clear in this place on numerous occasions my respect for the Hon. Robert Lawson QC, who I have no doubt is now doing very well in the private sphere. His expertise always greatly enhanced the debate in this place, and I for one miss that.

I would also like to commend the Hon. Stephen Wade for being able to step up to the plate to fill that void. As the Hon. Robert Lawson outlined when introducing it, the bill amends the Subordinate Legislation Act 1978 to empower either house of this parliament to amend or delete a contentious section of a regulation as opposed to our—

The Hon. R.P. Wortley interjecting:

The Hon. A. BRESSINGTON: Excuse me?

The Hon. R.P. Wortley interjecting:

The Hon. A. BRESSINGTON: —maybe if you did something worthwhile I'd commend you once in a while as well—current limited power to disallow the entire regulation—

The Hon. R.P. Wortley interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Wortley will get his chance.

The Hon. A. BRESSINGTON: While the saying 'using a sledgehammer to crack a walnut' is used often in this place—

The Hon. S.G. Wade: Leave Russell out of this!

The Hon. A. BRESSINGTON: —what, the sledgehammer or the walnut—I can see no more fitting example than disallowing an entire regulation to address a single section of concern, as other members have mentioned. This bill also addresses what is to my mind a fundamental flaw in the current process provided by the Subordinate Legislation Act 1978, that being the ability of the relevant minister to reintroduce regulations the day after they have been disallowed by the parliament.

This happened recently with the regulations under the Workers Rehabilitation and Compensation Act 1986 dealing with exit fees for those businesses seeking to be self-insured, which, despite this council voting to disallow on two separate occasions, was reintroduced without amendment.

I have no doubt that it will again occur with the disallowance today of the regulations under the Livestock Act concerning property identification code fees. Actually, it did not go

through, so there you go! By failing to engage with members in an attempt to address and rectify their concerns and instead reintroducing rejected regulations, the executive, I believe, shows contempt for this parliament. This simply should not be allowed to occur.

Additionally, the bill seeks to address the long-abused ability of the relevant minister under section 10AA(2) of the act to commence regulations immediately upon being gazetted, where necessary and appropriate. The act assumes that this would occur only in exceptional cases and that most regulations will come into effect in accordance with section 10AA(1); that is, four months after being gazetted. This period is intended to allow time for this parliament to undergo proper process in scrutinising the regulation through the Legislative Review Committee and, if moved, to debate a motion to disallow before it comes into operation.

This period would ensure that those who would be impacted by the regulation were given the opportunity to engage the democratic process by making representations to the members of parliament about their concerns before having to comply, and it would prevent this parliament being faced with the difficulty of being asked to disallow a regulation that has already commenced. However, as was noted by the Hon. Robert Lawson, ministers certifying that it is necessary and appropriate has become the norm. This is undoubtedly due to this threshold being too easily satisfied, hence this bill is proposing to require certification that there are exceptional circumstances justifying early commencement.

I can see no principle of governance that this bill offends. In fact, this will only enhance the role of this parliament in overseeing, scrutinising and contributing to instruments of our law and better reflects its supremacy over the executive, as is inherent in the Westminster democracies. While the government will no doubt oppose the bill, as it did in 2009, it will do so not in the interests of this parliament or the people it represents, but in its own self-interest, for which it should be ashamed. I commend the bill to the house.