

**MACHINERY OF GOVERNMENT (PLANNING AND INFRASTRUCTURE) AMENDMENT BILL
2001**

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No. 1

Clause 5, page 3, after line 28 - To insert -

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (4) An approval under subsection (3) may be given in respect of -
 - (a) a specified person or persons of a specified class; or
 - (b) the holder or holders for the time being of a specified office or class of office.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

No. 2

Clause 14, page 7, after line 26 - To insert -

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (4) An approval under subsection (3) may be given in respect of -
 - (a) a specified person or persons of a specified class; or
 - (b) the holder or holders for the time being of a specified office or class of office.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

No. 3

Clause 17, page 10, after line 26 - To insert -

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (4) An approval under subsection (3) may be given in respect of -
 - (a) a specified person or persons of a specified class; or
 - (b) the holder or holders for the time being of a specified office or class of office.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

No. 4

Clause 25, page 14, after line 24 - To insert -

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (4) An approval under subsection (3) may be given in respect of -

- (a) a specified person or persons of a specified class; or
- (b) the holder or holders for the time being of a specified office or class of office.

- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

No. 5

Clause 28, page 15, after line 24 - To insert -

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (4) An approval under subsection (3) may be given in respect of -
 - (a) a specified person or persons of a specified class; or
 - (b) the holder or holders for the time being of a specified office or class of office.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

No. 6

Clause 37, page 20, lines 11 and 12 - To delete the lines and insert instead -

“

“Ministerial Body” means the Transport Co-ordination Ministerial Body established by section 6;

”.

No. 7

Clause 39, page 21, lines 5 and 6 - To delete the lines and insert instead -

“

6. Transport Co-ordination Ministerial Body

- (1) The Transport Co-ordination Ministerial Body is established.

No. 8

Clause 68, page 38, after line 10 - To insert -

- (c) any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.

Ms MacTIERNAN: I move -

That amendments Nos 1 to 5 made by the Council be agreed to.

These amendments provide that the relevant director general cannot delegate a power or duty under the Control of Vehicles (Off-road Areas) Act, the Motor Vehicle Drivers Instructors Act, the Motor Vehicle (Third Party Insurance) Act, the Rail Safety Act or the Road Traffic Act to any person or class of persons who is not, or are not, an employee of that director general's department without ministerial approval.

The amendments also clarify that if a director general does delegate a power under one of those Acts, the power cannot be subdelegated.

Mrs EDWARDES: The Opposition supports the amendments on the basis outlined by the minister. They were made because of concern that a private provider or contractor - that is, a person not employed in the director general's department - could have the functions of the director general delegated to him without ministerial approval. These amendments put the delegation beyond doubt. Amendment No 8 will ensure that consequential legislation provides that delegation must have ministerial approval. Until now such ministerial approval was not required.

Question put and passed; the Council's amendments agreed to.

Ms MacTIERNAN: I move -

That amendments Nos 6 and 7 made by the Council be agreed to.

The recommendation to include the notion of a ministerial body was made by the Crown Solicitor's Office. The intention was to distinguish between the minister acting as a minister and the minister acting, I understand, as the body corporate under the legislation. However, this created in the mind of some a view that we might be creating additional statutory authorities. In order to remove that potential confusion and ambiguity, we have agreed to these amendments, which fundamentally change the title of that ministerial body from the Transport Co-ordination Authority to the Transport Co-ordination Ministerial Body. This will be common among many of the machinery of government Bills.

Mrs EDWARDES: The Opposition supports amendments Nos 6 and 7. The objection was to the use of the term "authority" and the potential for the powers and functions of the minister to be limited. However, a debate for another day is that, at common law, any terminology or definition could be seen to limit the role and power of a minister. I have had that debate on many occasions. As the minister said, the ministerial body defined in this legislation is likely to be taken as a precedent for all public sector Acts under which bodies and agencies will be established.

Question put and passed; the Council's amendments agreed to.

Ms MacTIERNAN: I move -

That amendment No 8 made by the Council be agreed to.

This has been amended to provide that the delegations previously made under section 18 of the Transport Co-ordination Act, which under the transitional provisions continued and are deemed to have been made under the amended Acts, are deemed to have had the approval of the minister if required under the new provisions. It is a technical provision, but I understand it is to ensure that delegations continue as required under the new provisions.

Mrs EDWARDES: The Opposition agrees to this amendment. It is to ensure that in the transitional provisions, the ministerial approval to which the House has agreed follows through and is therefore consistent.

Question put and passed; the Council's amendment agreed to.

The Council acquainted accordingly.

Sitting suspended from 6.00 to 7.00 pm