**ADMINISTRATIVE ARRANGEMENTS BILL 1994**

**House of Assembly, 22 February 1994, page 189**

Second reading

Received from the Legislative Council and read a first time.

**The Hon. D.C. WOTTON (Minister for the Environment and Natural Resources):** I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

The current Administration of Acts Act 1910, (‘the Act’) provides a legislative mechanism for effecting variations in the administrative arrangements of Executive Government.

The Act provides that the Governor may, by proclamation, commit the administration of an Act to a Minister or confer on a Minister a Ministerial power or function. When an Act provides that a specified Minister shall hold an office, the Governor may, by proclamation, declare that the office is to be held by some other Minister. The Governor may also, by proclamation, constitute a Minister a body corporate and may dissolve such a body corporate and declare that its assets and liabilities are to become assets and liabilities of another Minister as officer. Under the Act, a Minister may also delegate any of his or her statutory powers or functions to any other Minister.

In October 1992 the Government made a number of Ministerial changes requiring the making of proclamations by the Governor. Due to time constraints at that time and a lack of a readily accessible body of information, a number of the proclamations made by the Governor were wholly or partly invalid or inappropriate. Also the provisions of the Act were found to be inadequate and to require complex proclamations to achieve simple objectives.

To address the difficulties arising at this time, members of the Offices of Premier and Cabinet, Crown Solicitor and Parliamentary Counsel met for the purpose of examining the difficulties experienced in October 1992 and putting forward proposals for the establishment of a more efficient mechanism to effect changes to Government administrative arrangements.

The working group agreed that there was a need for a comprehensive and accurate database of information detailing, among other things, the number and names of administrative units and statutory authorities and the Ministers to whom they are responsible and the Acts for which each Minister is responsible. At first, access to the database will be limited to the Department of Premier and Cabinet and the Attorney-General’s Department. It is anticipated that access will be extended to the wider public sector in due course and eventually to the community as a whole. It is anticipated that the Department of Premier and Cabinet will maintain the database and keep it up to date.

The need to allow for transfer of all or some of the assets, rights and liabilities of a body corporate constituted of a Minister, to the Crown or another body corporate that is an agent or instrumentality of the Crown was identified.

It was also considered that a delegation of functions and powers by a Minister to another Minister or other person should remain effective after the primary powers and functions have been transferred to another Minister, until varied or revoked.

Further, a reference in an Act, an agreement or contract or any other document to a Minister, officer or government department should be able to be read as if it were a reference to a new Minister etc as specified by the Governor by proclamation.

The Bill repeals the existing Act and includes relevant provisions from the Act as well as many of the recommendations of the working group.

It is anticipated that the Bill will allow for a more efficient, effective legislative mechanism to enable changes to the administration of government.

Explanation of Clauses

Clause 1: Short title This clause is formal.

Clause 2: Repeal This clause repeals the Administration of Acts Act 1910.

Clause 3: Interpretation.This clause provides for the interpretation of terms used in the Bill.

Clause 4: Alteration of title of ministerial office. Clause 4 provides for the alteration of the title of a ministerial office by proclamation. To change the title of a Minister at the moment it is necessary for the Minister to resign and then to be appointed by the Governor under the new title.

Clause 5: Committal of Act to Minister. This clause provides for the committal of the administration of an Act to a Minister.

Clause 6: Conferral of ministerial functions and powers. Clause 6 provides for the conferral of ministerial functions and powers on a Minister. Clauses 5 and 6 reflect the substance of section 3(1) of the Administration of Acts Act 1910 repealed by clause 2. Clause 7: Body corporate constituted of Minister. This clause provides for incorporation of a Minister. The incorporation of a Minister facilitates the holding of property such as land by the Minister. Subclause (2) provides that a Minister will be incorporated in respect of all of his or her functions or powers unless specifically limited by the proclamation.

Clause 8: Interpretative provision. This clause is a provision that enables the Governor to direct a reference in an Act or other instrument or document referred to in subclause (1) to a Minister, a Public Service employee or an administrative unit to have effect as if it were a reference to another Minister, Public Service employee or administrative unit. Public Service employees are all the persons employed by or on behalf of the Crown except for those referred to in schedule 2 of the Government Management and Employment Act 1985. That schedule excludes (amongst others) the judiciary, the Auditor-General, the Ombudsman, the Police Complaints Authority and the Electoral Commissioner and Deputy Electoral Commissioner.

Clause 9: Delegation of functions and powers by a Minister. This clause provides for delegation of functions and powers by a Minister. It is similar to section 6 of the Administration of Acts Act 1910. Subclauses (4) and (5) are new. They provide for the continuity of delegations, appointments and authorisations on the transfer of the relevant function or power from one Minister to another.

Clause 10: Evidentiary provision. This clause is an evidentiary provision and is similar to section 7 of the Administration of Acts Act 1910.

Clause 11: Proclamations. Clause 11 provides in subclause (1) that a proclamation has effect notwithstanding an Act or law to the contrary. An Act may, however, expressly exclude the operation of that subclause.

Mr ATKINSON secured the adjournment of the debate.