

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Tenth Report — “Annual Report 2017” — Tabling

HON MARTIN PRITCHARD (North Metropolitan) [10.12 am]: I am directed to present the tenth report of the Joint Standing Committee on Delegated Legislation entitled “Annual Report 2017”.

[See paper 1382.]

Hon MARTIN PRITCHARD: The report that I have just tabled advises the house of the key activities of the committee for the 2017 calendar year. The committee scrutinises instruments made under statutory delegation and determines whether the instruments are beyond the scope of the delegated power or otherwise in breach of the committee’s terms of reference. The committee continues to scrutinise a large volume of delegated legislation. In 2017, 404 instruments, including 190 regulations and 141 local laws, were referred for scrutiny. The committee tabled six reports. In four of those reports, the Parliament was asked to consider whether five instruments should be disallowed. All five instruments were disallowed by this house. Motions for the disallowance of delegated legislation usually do not proceed in the Parliament if satisfactory undertakings are given to the committee. The committee recommends disallowance only as a last resort. During 2017, the committee received four departmental and 30 local government undertakings.

The committee encountered two sets of amendment regulations that had the effect of abrogating a fundamental common law principle. The committee found that, in each case, the abrogation was not authorised by the empowering acts. Satisfactory undertakings were received in both instances. Four local laws breached their empowering acts due to procedural defects. The Parliament disallowed these instruments at the committee’s recommendation.

The committee also dealt with a number of systemic issues in local laws. These issues did not result in disallowances because the affected local governments provided the committee with acceptable undertakings.

Section 3.12(2A) of the Local Government Act 1995 excuses minor procedural errors in local law-making. It has now been operating for over 12 months and 2017 is the first year in which the committee has had the opportunity to apply it. The report discusses examples of occasions on which the committee has and has not applied the section.

The committee trusts that the matters noted in this report will assist persons and bodies making delegated legislation to understand the committee’s processes and the issues identified in previous instruments. I commend the report to the house.

*Eleventh Report — “Shire of Broome Parking and Parking Facilities Amendment Local Law (2) 2017” —
Tabling*

HON MARTIN PRITCHARD (North Metropolitan) [10.15 am]: I am directed to present the eleventh report of the Joint Standing Committee on Delegated Legislation entitled “Shire of Broome Parking and Parking Facilities Amendment Local Law (2) 2017”.

[See paper 1383.]

Hon MARTIN PRITCHARD: The report that I have just tabled advises the house of the committee’s conclusion that the Shire of Broome did not comply substantially with the mandatory procedures prescribed in section 3.12 of the Local Government Act 1995 when it made the Shire of Broome Parking and Parking Facilities Amendment Local Law (2) 2017. The shire failed to notify the Minister for Local Government of its intent to make the local law. Pursuant to section 3.12(3)(b) of the Local Government Act 1995, the shire was to provide the minister with a copy of the proposed local law and the statewide advertisement notifying the public of the proposed local law. In the committee’s view, the local law was made invalidly and, consequently, is not within the power granted by the empowering act. The committee recommends that the local law be disallowed. Disallowing invalid local laws ensures that they are removed from the public record, thereby reducing the risk of public misinformation.

I commend the report to the house.