

*Joint Standing Committee on Delegated Legislation — Fortieth Report — “Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No.2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009”*

Resumed from 18 May 2010.

*Motion*

**Hon HELEN BULLOCK:** I move —

That the report be noted.

I am surprised to see that this report is still on the notice paper to be debated because the related disallowance motion was debated last year and it was defeated. Therefore, this is the last chance to speak on this disallowance motion. I believe it will be quite some time before we see another disallowance motion from this committee. The committee recommended that the six instruments that were the subject of the report be disallowed. All six instruments are contained in the Department of Racing, Gaming and Liquor’s annual review of its fees and charges for 2010. In this report the committee has outlined its concerns about increasing fees and charges. The Joint Standing Committee on Delegated Legislation’s thirty-second report was the more prominent report on this issue and I just spoke on the committee’s thirty-ninth report a few minutes ago. I repeat that this is an ongoing concern of the committee.

This review pushed the committee over the limit. The committee had no choice but to disallow all six of these instruments. Two fundamental concerns triggered the committee’s decision to recommend disallowing all six instruments. The first concern is that the committee found the Department of Racing, Gaming and Liquor could not in any way substantiate how it derived its original fees. The lack of a cost model makes it very difficult to determine the appropriate increase in fees and charges. The department told the committee that the reason the department did not know its fee structure was that the department did not have sufficient resources to undertake a full-scale assessment of the individual components of the fees stated in the amendment regulation. This is in the report. I can imagine the difficulties the department would have encountered to determine the increase in its fees and charges without knowing its cost structure or its basic cost model. In that situation it is not surprising that the department accepted Treasury’s recommendation to increase its fees by the same percentage as the increase in the consumer price index. I reiterate that, as the Auditor General pointed out in one of the hearings held on this issue, which I mentioned when I spoke on the thirty-ninth report, the CPI is not necessarily a good basis for establishing increases in fees and charges. However, I can understand why in these circumstances the department has used the CPI as a last resort. The department itself has admitted that the amendment regulations are structured on a cost-recovery model, which is the government’s policy for increasing fees and charges. For members who do not know, government departments operate on a full cost-recovery basis. If the fees charged go over cost recovery, the extra revenue is treated as an unauthorised tax, and if the fees charged amount to less than full cost recovery, the committee must question whether cross-subsidisation exists. Having said all that, one must ask whether the Department of Racing, Gaming and Liquor knows how much it costs to provide a particular service. Surely the answer to that question should be yes, but obviously it is not.

The second concern is the ministerial certificates that were introduced in 2005. These certificates are signed off by the relevant ministers and are then passed on to the Department of Treasury and Finance to ensure that the ministers are held accountable for the fee increases within their department. For that I refer members to paragraph 2.14, which, in part, states —

*... that the methodology for the costing of individual services and the setting of fees is materially accurate; and that there are no cases of fees where the revenue projections indicate that greater than 100 per cent cost recovery is achieved ...*

It is quite clear from the evidence presented to the committee that the ministerial certificate was not accurate. That is a real worry and raises the question of the integrity of the fee increases and the accountability of the minister.

I will conclude my remarks on a positive note again. I understand that the Director General of the Department of Racing, Gaming and Liquor has given an undertaking to the committee to conduct a full-scale review in the near future of the department’s fees and charges. I look forward to seeing the outcome of that review.

**Hon NORMAN MOORE:** I thank Hon Helen Bullock for her very succinct and intelligent assessment of the situation that we are contemplating.

**Hon Helen Bullock:** Is this sarcastic?

**Hon NORMAN MOORE:** No, not at all. I think Hon Helen Bullock explained it perfectly well from the committee's point of view. The difficulty the government sometimes has is that its advice is different from the advice the committee has; I referred to that in debate on the previous report. Sometimes there can be a difference of opinion between the State Solicitor's Office and the legal people advising the committee. I do recall when we debated this disallowance that a commitment was given by the department to thoroughly review its fee-setting arrangements. I think it was on that basis that the house agreed not to disallow the regulations and therefore deprive the department of a significant amount of revenue. But I shall remind the Minister for Racing and Gaming of the commitment made in the house—I think I made it on his behalf—that this needs to be done before the next round of fee setting takes place.

**Question put and passed.**