



THIRTY-EIGHTH PARLIAMENT

REPORT 33

**STANDING COMMITTEE ON UNIFORM
LEGISLATION AND STATUTES REVIEW**

ANNUAL REPORT 2008

Presented by Hon Adele Farina MLC (Chairman)

December 2008

STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES REVIEW

Date first appointed:

17 August 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“8. Uniform Legislation and Statutes Review Committee

- 8.1 *A Uniform Legislation and Statutes Review Committee* is established.
- 8.2 The Committee consists of 4 Members.
- 8.3 The functions of the Committee are -
- (a) to consider and report on Bills referred under SO 230A;
 - (b) of its own motion or on a reference from a Minister, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to SO 230A;
 - (c) to examine the provisions of any instrument that the Commonwealth has acceded to, or proposes to accede to, that imposes an obligation on the Commonwealth to give effect to the provisions of the instrument as part of the municipal law of Australia;
 - (d) to review the form and content of the statute book;
 - (e) to inquire into and report on any proposal to reform existing law that may be referred by the House or a Minister; and
 - (f) to consider and report on any matter referred by the House or under SO 125A.
- 8.4 For a purpose relating to the performance of its functions, the Committee may consult with a like committee of a House of the Parliament of the Commonwealth, a state or a territory, and New Zealand and similarly, may participate in any conference or other meeting.”

Members as at the time of this inquiry:

Hon Simon O’Brien MLC, (Chairman) resigned 23 September 2008	Hon Matt Benson-Lidholm MLC, resigned 11 November 2008
Hon Adele Farina MLC, (Chairman) appointed 11 November 2008	Hon Brian Ellis MLC, appointed 11 November 2008
Hon Donna Faragher MLC, resigned 8 September 2008	Hon Sheila Mills MLC
Hon Nigel Hallett MLC, appointed 11 November 2008	

Staff as at the time of this inquiry:

Ms Jan Paniperis, Committee Clerk	Dr Colin Huntly, Advisory Officer (Legal)
Mr Paul Grant, Clerk Assistant Committees	Ms Anne Turner, Advisory Officer (Legal)

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**REPORT OF THE STANDING COMMITTEE ON UNIFORM LEGISLATION AND STATUTES
REVIEW**

IN RELATION TO THE ANNUAL REPORT 2008

1 INTRODUCTION - ANNUAL REPORT

- 1.1 In the 37th Parliament, parliamentary committees of the Legislative Council tabled annual reports relating to their work during the preceding calendar year. This practice continues into the current, 38th Parliament.
- 1.2 On 7 August 2008, the State Election was called and the Parliament prorogued. This had the effect of suspending the activities of the Uniform Legislation and Statutes Review Committee (**Committee**) until the new Parliament commenced on 6 November 2008. Membership of the Legislative Council and its various committees remained unchanged during this period because the four year term had not expired.

2 TERMS OF REFERENCE

- 2.1 The Committee's current terms of reference are published on the inside cover of the report. The terms of reference refer to Standing Order 230A, a copy of which is attached at **Appendix 1** to this Report.
- 2.2 Standing Order 230A was amended on 20 September 2006. The amendments:
- provide that uniform legislation stands referred to the Committee at the conclusion of the Second Reading Speech;
 - specifically exclude the date of referral from the calculation of the 30 day reporting period; and
 - remove the previous express restriction on the consideration of the policy of a bill by a committee.
- 2.3 Standing Order 230B provides a general prohibition against Standing Committees inquiring into the policy of a bill unless otherwise ordered.

3 REPORTS

- 3.1 The following eight reports were tabled in the 37th Parliament during the period before the State Election was called on 7 August 2008:

- Cross-border Justice Bill 2007, tabled 19 February 2008, Report Number 24.
 - Medical Practitioners Bill 2006, tabled 19 February 2008, Report Number 25.
 - Legal Profession Bill 2007, tabled 19 February 2008, Report Number 26.
 - Consumer Credit (Bill Facilities) Amendment Regulation (No 1) 2007 (Qld), tabled 11 March 2008, Report Number 27.
 - Prisoners (Interstate Transfer) Amendment Bill 2007, tabled 27 May 2008, Report Number 28.
 - Sentence Administration (Interstate Transfer of Community Based Sentences) Bill 2007, tabled 27 May 2008, Report Number 29.
 - Co-operatives Bill 2007, tabled 27 May 2008, Report Number 30.
 - Road Traffic (Administration) Bill 2007; Road Traffic (Vehicles) Bill 2007; Road Traffic (Authorisation to Drive) Bill 2007; Road Traffic (Consequential Provisions) Bill 2007 and Road Traffic (Vehicles) (Taxing) Bill 2007, tabled 29 May 2008, Report Number 31.
- 3.2 The Annual Report 2007 (Report Number 32) was tabled on 2 December 2008 during the first session of the 38th Parliament. The Committee will table an Interim Report in relation to its own motion, *Statutes Review Inquiry* in December 2008.

4 COMMITTEE TRAVEL

- 4.1 No Committee travel was undertaken during 2008.

5 REPORTS TABLED - UNIFORM BILLS

General

- 5.1 The Committee scrutinises bills containing uniform legislation under term of reference 8.3(a) which provides that the Committee is “*to consider and report on Bills referred under SO 230A*”.
- 5.2 The Committee scrutinises 230A bills against relevant, fundamental legislative scrutiny principles listed in **Appendix 2**. Standing Order 230A sets out a specific procedure to ensure that all bills involving uniform legislation are referred to the Committee and are not progressed in the Legislative Council until the Committee tables its report.
- 5.3 Pursuant to Standing Order 230A, ‘uniform legislation’ is the term applied to bills that:

- ratify or give effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or
- by reason of their subject matter, introduce a uniform scheme or uniform laws throughout the States and Territories.

5.4 During 2008 the Committee continued its practice of holding a hearing on every Standing Order 230A referral. This provides the Committee with an opportunity to question the relevant departmental instructing officer, together with the relevant Parliamentary Counsel draftsman. In some cases it has also been helpful to include relevant technical or operational personnel on the witness lists at such hearings to provide important background information.

6 INQUIRIES COMMENCED IN THE REPORTING PERIOD BUT NOT CONCLUDED AS AT 31 DECEMBER 2008

6.1 The following uniform legislation inquiries were commenced in the reporting period but not concluded.

- The Statutes (Repeals and Minor Amendments) Bill 2008, containing 50 clauses, was introduced to the Legislative Council on 20 March 2008. The bill lapsed on the prorogation of the Parliament for the State Election. Following resumption of the Parliament and as at the date of this Report, the bill has not been re-instated on the Notice Paper.
- The Payroll Tax Assessment Amendment Bill 2008. As at the date of this Report, this bill, which also lapsed due to the State Election, has not been re-instated on the Notice Paper.
- The Consumer Credit Code (Justice Legislation Amendment Bill 2008 (Qld)). The Committee has, to the date of this report, been unable to proceed with its scrutiny because the relevant Draft Order has not yet been tabled in the Parliament.

7 BILLS NOT AUTOMATICALLY REFERRED TO THE COMMITTEE IN THE REPORTING PERIOD

7.1 Under Standing Order 230A, unless otherwise ordered by the House, uniform scheme bills are automatically referred to the Committee at the conclusion of the second reading speech of the Minister or Member in charge. Two such bills were not referred in this reporting period and they are discussed below.

The Statutes (Repeals and Miscellaneous Amendments) Bill 2008

7.2 This bill was formerly known as the Statutes (Repeals and Minor Amendments Bill) 2006 and contained 159 clauses. The Committee tabled a report relating to the former

bill on 16 October 2007.¹ The former bill was passed by the Legislative Council on 24 June 2008 but lapsed on the prorogation of the Parliament for the State Election on 7 August 2008. The current bill has not been referred in this Parliament. Hon Norman Moore, MLC, Leader of the House explained:²

It is usual practice for omnibus bills to be referred to the Standing Committee on Uniform Legislation and Statutes Review; however, given that this bill has already been scrutinised by this committee in great detail, it would be duplicative for this to again occur, when the majority of amendments are in accordance with the committee's recommendations.

- 7.3 The Committee noted that although the Statutes (Repeals and Miscellaneous Amendments Bill) 2008, containing 141 clauses, re-introduced the same content as the Statutes (Repeals and Minor Amendments) Bill 2006, it excluded the repeal of various imperial statutes.³ The Parliamentary Counsel's Office advised that this was done deliberately because a bill dedicated to the repeal of imperial legislation is contemplated for 2009.⁴

The Training Legislation Amendment and Repeal Bill 2008

- 7.4 This bill was formerly known as the Education and Training Legislation Amendment and Repeal Bill 2008 which lapsed on the prorogation of the Parliament for the State Election. The Training Legislation Amendment and Repeal Bill 2008 was introduced into the Legislative Council on 11 November 2008. Although substantially the same as the former bill, it was not referred to the Committee under Standing Order 230A(3). No explanation was given.
- 7.5 A draft report on the former bill was completed and prepared for tabling but with the prorogation of the Parliament, this did not occur. The Committee has attached a copy of the final draft report at **Appendix 3** for the consideration of the House during debate into the Training Legislation Amendment and Repeal Bill 2008.

¹ The bill was previously known as the Statutes (Repeals and Minor Amendments Bill) 2004. See the Western Australia, Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, Report 21, Statutes (Repeals and Minor Amendments) Bill 2006, 16 October 2007.

² Hon Norman Moore MLC, Leader of the House, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 12 November 2008, p157.

³ The Committee raised no objection in relation to these imperial statutes in its Report No 21 concerning the Statutes (Repeals and Minor Amendments) Bill 2006.

⁴ Telephone discussion between Ms N Armstrong, Parliamentary Draftsperson and the Committee's Advisory Officer, 21 November 2008.

8 REPORTS TABLED - *CONSUMER CREDIT (WESTERN AUSTRALIA) ACT 1996*

- 8.1 Consumer credit is regulated by a national legislative scheme called the *Consumer Credit Code*. Under this scheme, the States and Territories adopt template legislation passed in Queensland which ensures that the same legislation operates in each jurisdiction. In all jurisdictions, except Western Australia and Tasmania, amendments to the Queensland legislation are automatically adopted.
- 8.2 In Western Australia, as a result of a statutory referral process under sections 6 and 6B of the *Consumer Credit (Western Australia) Act 1996*, amendments to the Queensland legislation must be:
- provided by the relevant Minister to the Clerk of each House of Parliament and the Committee; and
 - approved as a draft order by both Houses of Parliament.
- 8.3 If approved, the amendments are then published by the Governor as an Order in the *Government Gazette* and commence operation.
- 8.4 Only one inquiry was commenced and concluded pursuant to a referral under section 6B of the *Consumer Credit (Western Australia) Act 1996*. This was the inquiry into the Consumer Credit (Bill Facilities) Amendment Regulation (No 1) 2007 (Qld), the report of which was tabled on 11 March 2008.⁵
- 8.5 The Committee noted that the future of these inquiries is uncertain given the Council of Australian Governments' meeting on 3 July 2008 at which it was agreed that the Commonwealth Government will assume responsibility for the regulation of all consumer credit.⁶

9 UPDATE ON THE OMNIBUS STATUTES REVIEW FUNCTION

Report 21

- 9.1 The Committee took great care in Chapter 1 of its Report 21 to outline the accepted nature and function of 'omnibus statutes review' legislation. The subsequent analysis

⁵ Report Number 27.

⁶ At the meeting of 2 October 2008, "COAG agreed that the present unprecedented upheaval in global financial markets and renewed international scrutiny of their regulation underlines the importance of pressing forward with the COAG reform agenda to enhance the productive capacity and flexibility of the Australian economy. Building on its agreement in July 2008, COAG endorsed an implementation plan to strengthen the Australian financial services and credit regulation framework." See: http://coag.gov.au/coag_meeting_outcomes/2008-10-02/index.cfm#regulat (viewed on 18 November 2008).

of the former Statutes (Repeals and Minor Amendments) Bill 2006⁷ was conducted through the prism of that outline.

- 9.2 In Report 21, the Committee commented specifically on the concerning incidence of unhelpful or misleading commentary contained within the explanatory memorandum to these bills.⁸ The Committee highlighted a number of such instances. The Committee also reported its concerns about the grouping together of similar-type amendments in omnibus statutes review bills. The Committee was there attempting to provide feedback to Parliamentary Counsel's draftspersons about the preferences of legislators so that it might facilitate the expeditious scrutiny of legislation. The Committee remains hopeful that these comments will be considered by future draftspersons.
- 9.3 The Committee noted that more than 175 years after the establishment of the Legislative Council, imperial legislation still encumbers the Western Australian statute book. The Committee further noted that the Law Reform Commission of Western Australia (**LRCWA**) published a report on imperial statutes in 1994.⁹ The outcome of that report is summarised on the LRCWA's website in the following terms:¹⁰

In 1995, Cabinet approved the drafting of legislation to implement this report. Parliamentary Counsel prepared a first draft, the Imperial Acts (Law Reform) Bill, and requested comments from the Commission. In August 1996, representatives of the Commission, the Solicitor General and Parliamentary Counsel met with the Attorney General to discuss the proposed legislation. No further action has been taken.

- 9.4 The Committee is concerned that the costly work product of both the LRCWA and Parliamentary Counsel should result in "no further action". This matter relates to the Committee's term of reference to review the form and content of the statute book and is addressed further in this report below.

The Former Government's Response to Report 21

- 9.5 Recommendation 10 in Report 21 on the Statutes (Repeals and Minor Amendments) Bill 2006 reads as follows:

⁷ Renamed as the Statutes (Repeals and Miscellaneous Amendments Bill) 2008 in the 38th Parliament after the State Election.

⁸ Western Australia, Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, Report 21, Statutes (Repeals and Minor Amendments) Bill 2006, 16 October 2007, p41.

⁹ Law Reform Commission of Western Australia, Project 75 Report, *United Kingdom Statutes in Force in Western Australia*, 25 October 1994.

¹⁰ <http://www.lrc.justice.wa.gov.au/075o.html>, (viewed on 18 March 2008).

The Committee recommends that Premier's Circular 2003/15, Statutes (Repeals and Minor Amendments) Bill, issued by the Department of Premier and Cabinet, Western Australia, 24 November 2003 be amended and re-issued to make clear to departments that omnibus statutes review Bills are not appropriate vehicles for amendments whose sole or principal function is: "to better implement the object or intent of legislation" or are otherwise justified primarily on the grounds of legislative policy.

9.6 The former Government's response to the above recommendation is as follows:¹¹

The Government does not agree to recommendation 10, as the effect of which would unduly restrict the operation of the Bill. The Government is of the view that the Bill, and other such omnibus legislation, should not be restricted to merely technical matters concerning corrections of a typographical nature, which would be the outcome if this recommendation is accepted. Furthermore, the Bill and other such omnibus legislation should not, in order to be effective, be so limited that the Bill is only to apply to correct clerical mistakes, accidental slips and omissions that are of little consequence.

9.7 This response indicates a concerning disregard for the accepted policy and function of omnibus bills as outlined in Chapter 1 of Report 21, where the Committee noted:¹²

'Omnibus' Statutes Review Legislation

The nature of omnibus statutes review legislation generally and the current approach to them in Western Australia in particular was examined by the Committee in its report on the Statutes Law Revision Bill 2005.¹³ The Second Reading Speech to the Bill by the Minister provides a succinct summary as follows:

An omnibus bill is an avenue for making general housekeeping amendments to legislation. It is designed to make only relatively minor, non-controversial amendments to various acts and to repeal acts that are no longer required. Omnibus bills assist in expediting the government's legislative program and parliamentary business by reducing

¹¹ Tabled Paper No 3614, 19 February 2008, p2.

¹² Western Australia, Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, Report 21, Statutes (Repeals and Minor Amendments) Bill 2006, 16 October 2007, pp5-7.

¹³ Western Australia, Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, Report 8, Statutes Law Revision Bill 2005, April 2006, pp1-3.

*the number of separate amendment bills that deal with relatively minor amendments and repeals. They also help to weed out spent or redundant legislation from the statute book. The Department of the Premier and Cabinet has overseen the preparation of the bill to try to ensure that amendments about which there is some contention or complexity, or that make some substantive change to the law, are not included.*¹⁴

These views have been echoed over time in debates concerning previous omnibus statutes review legislation. For example, in 1998 an earlier omnibus bill was described in the following terms by Hon Norman Moore MLC, then Leader of the House:

*Its aim is to make Parliament more efficient by reducing the number of amendment Bills dealing with relatively minor legislative amendments and repeals. Amendments and repeals included in the Bill are required to be short and non controversial. In addition, they must not impose or increase any obligations or adversely affect any existing rights.*¹⁵

Numerous predecessors in time to this Committee have scrutinised and reported on omnibus statutes review legislation brought before the Legislative Council. In one such earlier report, the then Standing Committee on Legislation observed as follows:

The Committee reiterates that the purpose of the Bill is to revise statute law by repealing spent, unnecessary or superseded Acts, and by making miscellaneous minor amendments to various Acts. ...

OMNIBUS BILLS

The common name for bills of this nature is “omnibus bills”. The policy behind such bills is to provide a regular opportunity for necessary legislative amendments of a noncontentious and minor nature to pass through Parliament without having to wait in line behind contentious political matters and major legislation. Omnibus bills are also cost and time effective for the Parliament.

¹⁴ Hon Kim Chance MLC, the then Leader of the House, Minister Representing the Premier, Minister for Public Sector Management, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 18 October 2006, p7142.

¹⁵ Hon Norman Moore MLC, the then Leader of the House, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 3 December 1998, p4800.

As the name partly suggests, the only thing that the amendments have in common is their nature rather than their subject matter. In preparing omnibus bills, amendments that are likely to be contentious or which make a substantial change in the law are not accepted.

In response to this particular observation in the report of that Committee, a Premier's Circular (No 15 of 2003) was issued instructing relevant government departments and agencies as to the purpose and limitations of omnibus statutes review legislation, namely:¹⁶

- *the repeal of obsolete legislation;*
- *the correction of typographical and other minor drafting errors; and*
- *amendments that make legislation more accurate by reflecting changes in names, titles, entities, designations etc.*

The Committee notes the extent to which the amplified comments of Premier's Circular 15/ 2003 reiterate the views referred to above:¹⁷

Amendments will not be considered to be minor where they make substantial changes to the powers, rights, obligations or processes provided for in the legislation concerned, or otherwise impose or increase any obligation or adversely affect any existing rights. Amendments may also cease to be of a minor nature where they insert multiple new sections into the substantive Act, or they are not reasonably clear on their face as to the effect.

9.8 Despite the former Government's assurances that some clauses in the bill were not policy matters, the significance of the policy change in the former Government's response to Recommendation 10, should not be underestimated. The former Government's approach, if pursued, threatens the non-controversial status of future omnibus bills.

¹⁶ Premier's Circular 2003/15, *Statutes (Repeals and Minor Amendments) Bill*, issued by the Department of Premier and Cabinet, Western Australia, 24 November 2003.

¹⁷ Id.

The Legislative Council's Response to Report 21

- 9.9 Clauses in the Statutes (Repeals and Minor Amendments) Bill 2006 were considered in detail on 4 and 18 June 2008. The then Leader of the House, Hon Kim Chance MLC said:¹⁸

I just say by way of summary that I do not think there is any great dispute here. The government is firmly of the view that the great value of omnibus bills is that they allow us to undertake a tidying-up operation. It is essential in that process for everyone to have confidence that the matters that we are addressing in the bill are not matters of policy but are matters that fit that tidying up-type operation. I believe all parties have essentially the same view and it will become very clear that the government, the opposition and the committee are generally not at odds with one another. The government's amendments will reflect that and it will become clear during the assessment of those amendments in committee.

- 9.10 The Committee made 13 recommendations to the bill.¹⁹ The Legislative Council agreed with the Committee's seven statutory form recommendations which proposed that various amendments to six Acts were not suitable for inclusion in an omnibus bill.

- 9.11 The Committee stands by its long held position on omnibus bills as reported in Chapter 1 of Report 21.

10 OTHER INQUIRIES

Intergovernmental Agreement on the Reform of Commonwealth - State Financial Relations

- 10.1 This inquiry was referred by the Legislative Council pursuant to paragraph 8.3(f) of the Committee's terms of reference on 19 October 2005. The terms of reference for the inquiry are:

That the Standing Committee on Uniform Legislation and Statutes Review do inquire into and report on the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations including -

¹⁸ Hon Kim Chance MLC, the then Leader of the House, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 4 June 2008, p3480.

¹⁹ For example: in relation to clause 18 with respect to the *Adoption Act 1994*; in relation to clause 41 with respect to the *Corruption and Crime Commission Act 2003*; in relation to clause 95 with respect to the *Local Government Act 1995*; and in relation to clause 114 with respect to the *Professional Combat Sports Act 1987*.

-
- (a) *the implementation of that Agreement;*
 - (b) *any reviews required by that Agreement;*
 - (c) *the possible impact of any matters proposed or arising under any review;*
 - (d) *any related issues the Committee considers appropriate;*
 - (e) *the fiscal benefits flowing to the Commonwealth from the economic development of Western Australia;*
 - (f) *the extent of, reasons for and ways to ameliorate Western Australia's fiscal subsidy to the rest of the Australian Federation; and*
 - (g) *the relative extent of and potential for Commonwealth direct investment in Western Australian infrastructure.*

10.2 In the 2007 Annual Report of the Committee, it was noted that the Committee had tabled an Interim Report relating to four of the above terms of reference.²⁰ However, the Committee has discontinued its inquiry into the remaining terms of reference as the matter was not re-referred by the Legislative Council when the Parliament resumed on 6 November 2008 after the State Election.²¹

11 ONGOING INQUIRY

The Statutes Review Inquiry

11.1 Term of reference 8.3(d) empowers the Committee “*to review the form and content of the statute book*”. Statutes Repeals and Minor Amendment Bills (also known as ‘omnibus bills’) are a mechanism by which the statute book is reviewed.

11.2 On 28 November 2005, the Committee resolved to inquire into and report on:

- a) the purpose and nature of Statutes Repeals and Minor Amendments Bills;
- b) the process for the drafting and enactment of Statutes Repeals and Minor Amendments Bills and, if relevant, the comparative process in other Australian jurisdictions; and
- c) any related issues the Committee considers appropriate.

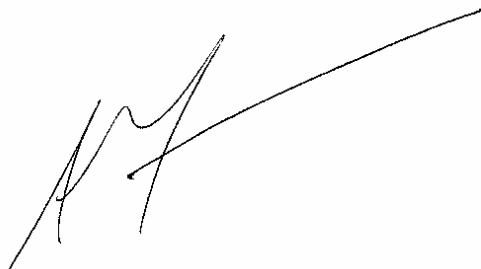
²⁰ (a) to (d).

²¹ The Committee noted that on 15 May 2008, the Western Australian, Legislative Assembly Public Accounts Committee tabled a report into the funding arrangements for selected major infrastructure projects in Western Australia.

- 11.3 Given the perennial nature of omnibus bills, together with the close connection they bear to the overall statutes review project, the Committee has formed the view that this inquiry must be in the nature of an open, watching brief. In the absence of a direction from the Legislative Council to the contrary, it is the Committee's intention to pursue this term of reference in an ongoing manner.
- 11.4 The Committee anticipates that there may be occasion for interim reports on matters of particular significance relating to omnibus bills, but in the normal course, the Committee proposes to use the vehicle of the Annual Report to advise the Legislative Council of its inquiries on this matter.
- 11.5 The Committee travelled to the United Kingdom and the Republic of Ireland in late 2007 to progress this inquiry. The Committee will table an interim report on the outcomes of that travel in December 2008.

12 CONCLUSION

- 12.1 The Committee had a productive year tabling ten reports (including this one), the majority of which related to uniform legislation. There are a number of other matters subject to ongoing inquiry as at the end of this reporting period. Members of the Committee would like to record their appreciation for the excellent support of Committee staff.



Hon Adele Farina MLC
Chairman

2 December 2008

APPENDIX 1
STANDING ORDER 230A

APPENDIX 1

STANDING ORDER 230A

Standing Order 230A

- (1) This order applies to a Bill that -
 - a) ratifies or gives effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or
 - b) by reason of its subject matter, introduces a uniform scheme or uniform laws throughout the Commonwealth.
- (2) The second reading stage of a Bill is not to be resumed where SO 230(a) applies, within 30 days of the date of the adjournment (exclusive of that day) or before it has been reported from a committee, whichever is the later.
- (3) Unless otherwise ordered, a Bill stands referred to the *Uniform Legislation and Statutes Review Committee* at the conclusion of the second reading speech of the Minister or Member in charge.
- (4) The *Uniform Legislation and Statutes Review Committee*, or other committee, receiving a Bill under subclause (3) is to present its final report not later than 30 days of the day of the reference (exclusive of the referral day) or such other period as may be ordered by the House.

APPENDIX 2
FUNDAMENTAL LEGISLATIVE SCRUTINY PRINCIPLES

APPENDIX 2

FUNDAMENTAL LEGISLATIVE SCRUTINY PRINCIPLES

Does the legislation have sufficient regard to the rights and liberties of individuals?
--

1. Are rights, freedoms or obligations, dependent on administrative power only if sufficiently defined and subject to appropriate review?
2. Is the Bill consistent with principles of natural justice?
3. Does the Bill allow the delegation of administrative power only in appropriate cases and to appropriate persons? Sections 44(8)(c) and (d) of the *Interpretation Act 1984*. The matters to be dealt with by regulation should not contain matters that should be in the Act not subsidiary legislation.
4. Does the Bill reverse the onus of proof in criminal proceedings without adequate justification?
5. Does the Bill confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer?
6. Does the Bill provide appropriate protection against self-incrimination?
7. Does the Bill adversely affect rights and liberties, or impose obligations, retrospectively?
8. Does the Bill confer immunity from proceeding or prosecution without adequate justification?
9. Does the Bill provide for the compulsory acquisition of property only with fair compensation?
10. Does the Bill have sufficient regard to Aboriginal tradition and Island custom?
11. Is the Bill unambiguous and drafted in a sufficiently clear and precise way?

Does the Bill have sufficient regard to the institution of Parliament?

12. Does the Bill allow the delegation of legislative power only in appropriate cases and to appropriate persons?
13. Does the Bill sufficiently subject the exercise of a proposed delegated legislative power (instrument) to the scrutiny of the Legislative Council?
14. Does the Bill allow or authorise the amendment of an Act only by another Act?
15. Does the Bill affect parliamentary privilege in any manner?
16. In relation to uniform legislation where the interaction between state and federal powers is concerned: Does the scheme provide for the conduct of Commonwealth and State reviews and, if so, are they tabled in State Parliament?

APPENDIX 3

EDUCATION AND TRAINING LEGISLATION AMENDMENT AND REPEAL BILL 2008 (FINAL DRAFT REPORT NOT TABLED DUE TO PROROGATION ON 7 AUGUST 2008)