



1997

WESTERN AUSTRALIA
LEGISLATIVE ASSEMBLY

**STANDING COMMITTEE ON
UNIFORM LEGISLATION AND
INTERGOVERNMENTAL AGREEMENTS**

BANK MERGERS BILL 1997

Twentieth Report

Presented by:

Hon. K. J. Minson, MLA

Laid on the Table of the Legislative Assembly
on the Thursday, 12 June 1997

ORDERED TO BE PRINTED

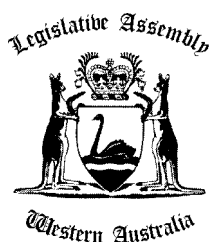
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Committee Members

<i>Chairman</i>	Hon. K. J. Minson, MLA (Member for Greenough)
<i>Deputy Chairman</i>	Mr F. Riebeling, MLA (Member for Burrup)
<i>Members</i>	Mr D. Barron-Sullivan, MLA (Member for Mitchell)
	Mr E. J. Cunningham, MLA (Member for Girrawheen)
	Ms M. R. Holmes, MLA (Member for Southern Rivers)

Committee Staff

<i>Clerk/Research Officer</i>	Mr Keith Kendrick
<i>Legal/Research Officer</i>	Ms Melina Newnan
<i>Secretary/Committees</i>	Mrs Patricia Roach

COMMITTEE ADDRESS

Legislative Assembly	Contact: Mr Keith Kendrick
Parliament of Western Australia	Telephone: (08) 9222 7486
Harvest Terrace, PERTH WA 6000	Fax: (08) 9321 9366

Terms of Reference

On Wednesday 4 August 1993 the Legislative Assembly established the Standing Committee on Uniform Legislation and Intergovernmental Agreements.

On Tuesday, 18 March 1997 the Legislative Assembly reestablished the Standing Committee on Uniform Legislation and Intergovernmental Agreements with the following terms of reference:

- (1) That a Standing Committee be established for the duration of the 35th Parliament to inquire into, consider and report on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes involving the Commonwealth, States and Territories, or any combination of States and Territories without the participation of the Commonwealth.
- (2) When considering draft agreements and legislation, the Committee shall use its best endeavours to meet any time limits notified to the Committee by the responsible Minister.
- (3) The Committee shall consider and, if the Committee considers a report is required, report on any matter within three months; but if it is unable to report in three months, it shall report its reasons to the Assembly.
- (4) Each member, while otherwise qualified, shall continue in office until discharged, notwithstanding any prorogation of the Parliament.
- (5) No member may be appointed or continue as a member of the Committee if that member is a Presiding Officer or a Minister of the Crown.
- (6) When a vacancy occurs on the Committee during a recess or a period of adjournment in excess of 2 weeks the Speaker may appoint a member to fill the vacancy until an appointment can be made by the Assembly.
- (7) The Committee has power to send for persons and papers, to sit on days over which the House stands adjourned, to move from place to place, to report from time to time, and to confer with any committee of the Legislative Council which is considering similar matters.
- (8) If the Assembly is not sitting, a report may be presented to the Clerk of the Legislative Assembly who shall thereupon take such steps as are necessary and appropriate to publish the report.
- (9) In respect of any matter not provided for in this resolution, the Standing Orders and practices of the Legislative Assembly relating to Select Committees shall apply.

Chairman's Foreword

This is the second Report of this new Committee and the twentieth Report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements.

The Terms of Reference of the Standing Committee allow the Committee to inquire into, consider and report to the Legislative Assembly on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes.

In view of the debates in both Houses of Parliament on the *Bank Mergers Bill 1997* the Standing Committee believes that it is appropriate to comment on the legislative mechanisms of the Bill.

The Standing Committee accepts the principles to be achieved by the legislation are exclusively commercial in nature, but nevertheless, believes that the principle of full parliamentary scrutiny should be preserved wherever possible. To this end the Committee is of the opinion that this should be borne in mind by the executive government.

The opportunity for parliamentary scrutiny of legislation is optimal when a Bill is introduced but this is diminished when regulations or orders are used to adopt legislation of another jurisdiction.

The adoption of legislation of another jurisdiction is not itself a problem if the Western Australian Parliament can scrutinise the legislation as a Bill to ensure that all Members are aware of what they are adopting.

This Report provides background to the Bill and discusses the advantages and disadvantages of the current legislation and provides alternatives for this and other legislation.

Finally, I thank my fellow Committee members for their individual and collective contributions to this report and commend the Legal/Research Officer, Melina Newnan, the Clerk/Research Officer, Keith Kendrick and the Secretary/Committees, Pat Roach, for their hard work.

HON. K. J. MINSON, MLA
CHAIRMAN

Abbreviations

Throughout this report:

"Standing Committee"	means the Standing Committee on Uniform Legislation and Intergovernmental Agreements established by the Legislative Assembly of the Western Australian Parliament on the 4 August 1993.
"Select Committee"	means the Western Australian Select Committee on Parliamentary Procedures for Uniform Legislation Agreements established by the Legislative Assembly of the Western Australian Parliament on the 4 June 1992.
"NAB"	means the National Australia Bank Limited.
"BNZ"	means the Bank of New Zealand.

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1. INTRODUCTION

This report considers the *Bank Mergers Bill 1997* (Appendix One) which was introduced into the Western Australian Parliament on 29 April 1997. The Bill provides for the adoption of legislation of another jurisdiction in respect of bank mergers.

The Report outlines the background of the Standing Committee on Uniform Legislation and Intergovernmental Agreements and the Committee's charter to consider proposed uniform legislation. Principles enunciated by this Committee are also discussed.

The history to the bank mergers legislation is outlined, as well as the consideration of the response of a number of jurisdictions.

Consideration is given to the advantages and disadvantages of using general bank merger legislation as well as a discussion of the differences posed by the bank mergers legislation as opposed to other uniform legislation. The Report finally draws conclusions and makes recommendations.

2. BACKGROUND OF THE COMMITTEE

The Standing Committee was established as a result of recommendations from the Select Committee on Parliamentary Procedures for Uniform Legislation Agreements in 1992. The Select Committee had concerns about the scrutiny of uniform legislation and the implications for Parliament. The charter of the Standing Committee is to inquire into, consider and report on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes.

Specifically, the Standing Committee on Uniform Legislation and Intergovernmental Agreements was established as a result of concerns that -

- Two Queensland Acts [*Financial Institutions (Queensland) Act 1992*; and *Australian Financial Institutions Commissions Act 1992*] which were not available to members of the Western Australian Parliament were incorporated into the law of Western Australia by Western Australian Bills.
- The two Queensland Acts were neither incorporated in, nor appended to, the Western Australian Bills.
- The model used to achieve uniformity involved the application in Western Australia of Queensland legislation.
- The Western Australian Parliament was, in effect, delegating some of its powers to the Queensland Parliament.
- Any amendments to the uniform legislation were to be enacted by the Queensland Parliament.

- Regulations under the scheme were to be made by the Governor in Council in Queensland.
- Appeals on questions of law were required to be initiated in the Queensland Supreme Court.

3. UNIFORM LEGISLATION PRINCIPLES

The Standing Committee has embraced a number of principles. Two important aspects are outlined below:

- Adoption of legislation of another jurisdiction is not of itself a problem if the Western Australian Parliament can scrutinise the legislation as a Bill it is adopting to ensure that all Members are aware of what they are adopting.
- Parliament should be involved in the process when implementing the law of another jurisdiction.

To this end the Standing Committee resolved and recommended in Report No. 1 - *Establishment and Analysis* and Report No. 4 - *Parliament and the Executive* that an amendment be made to the Standing Orders of the Legislative Assembly.¹ (See Appendix Two). At the time the Committee was of the view that this was sufficient to ensure the Assembly's ability to properly scrutinise legislation.

The availability of information about the actions and decisions of Government is fundamental to effective scrutiny and review. The Standing Committee's experience with the uniform Consumer Credit Laws Agreement and the legislation for its implementation in Western Australia convinced the Standing Committee that a more elaborate set of provisions were required. Accordingly, the Standing Committee recommended that Standing Orders be amended again in Report No. 9 - *Implementing the Uniform Credit Laws Agreement 1993*.² (see Appendix Three)

Finally, the Select Committee on Procedure recommended the adoption of a Sessional Order in its First Interim Report 1995.³ That recommendation of the Select Committee on Procedure is Recommendation Three of this Report.

¹ (a) Western Australian Standing Committee on Uniform Legislation on Intergovernmental Agreements, *Establishment and Analysis: Establishment of the Standing Committee and Analysis of the Recommendations of the Select Committee*, First Report, Legislative Assembly 1994, p. 11. (see Appendix 2)

(b) Western Australian Standing Committee on Uniform Legislation and Intergovernmental Agreements, *Parliament and the Executive: Parliamentary Scrutiny and Review of Uniform Legislation and Intergovernmental Agreements*, Fourth Report, Legislative Assembly 1994, p. 6. (see Appendix 2)

² Western Australian Standing Committee on Uniform Legislation on Intergovernmental Agreements, *Report concerning the various methods available for Implementing the Australian Uniform Credit Laws Agreement 1993 in Western Australia*, Ninth Report, Legislative Assembly 1995, p. 27. (see Appendix Three)

³ Western Australian Select Committee on Procedure, *Interim Report*, Legislative Assembly, 1995, p. 3.

4. BACKGROUND TO BANK MERGER LEGISLATION

The National Australia Bank Limited (NAB) requested assistance from the Australian States and Territories to pass complementary legislation to facilitate the transfer of specific assets and liabilities within each jurisdiction.

In November 1992, the National Australia Bank Limited (NAB) acquired the Bank of New Zealand (BNZ), a New Zealand company. BNZ became a wholly owned subsidiary of NAB in February 1993. Part of BNZ's business is a banking business in Australia, which operates with relative autonomy as a division of BNZ, under the name of BNZ Australia. BNZ has authority as a licensed foreign bank under Division 1 of Part 11 of the *Banking Act 1959 (Commonwealth)* to carry on banking business in Australia. As a result of the acquisition of BNZ by NAB, BNZ is required by the Reserve Bank of Australia to surrender its authority and, as such it is necessary to transfer BNZ's Australian undertaking to NAB.

5. JURISDICTIONAL RESPONSE

The response by a number of Australian States and Territories to the request for assistance in passing complementary legislation to facilitate the transfer of specific assets and liabilities of the banks is now considered.

Victoria and Queensland have passed specific legislation to deal with the specific merger between National Australia Bank (NAB) and the Bank of New Zealand (BNZ). The New South Wales Parliament has passed adoption of laws legislation which is the equivalent legislation to the Western Australian legislation. This approach is being considered by South Australia.

Considered below is the legislative responses of Queensland, Victoria, New South Wales and Western Australia.

5.1 Queensland

Queensland introduced the *Bank of New Zealand (Transfer of Undertaking) Bill 1997* on 30 April 1997. The Bill was passed on 8 May 1997.

The legislation assists NAB and BNZ in the transfer of BNZ's Australian undertaking to NAB by providing for the transfer of BNZ's assets and liabilities to NAB. The legislation -

- overcomes the need for NAB and BNZ to identify and transfer numerous individual assets and liabilities;
- facilitates continuity in customer relationships and staff entitlements;
- provides protection for persons dealing with either bank in relation to the transferred assets and liabilities; and
- establishes clear guidelines in the above areas as to the rights and obligations of

the acquiring entity.

The legislation vests the undertaking of BNZ in NAB, effectively transferring the relevant assets and liabilities, and by exempting the transfers from stamp duty, conditional upon the payment by NAB to the Consolidated Fund, of a lump sum in lieu of such stamp duty. The amount of the payment in lieu is to be determined by the Governor in Council.

The legislation achieves the transfer of BNZ's undertaking, but overcomes the burden of having to identify, transfer and pay transfer stamp duty on individual assets and liabilities. Also, the payment of the lump sum in lieu of individual stamp duty payments is intended to equate the duty which would otherwise be payable and will be determined in consultation with the Office of State Revenue and NAB. Continuity in customer relationships is achieved by deeming relationships between BNZ and each BNZ customer to be between NAB and the customer and by preserving the rights and duties under those relationships. Similarly, former BNZ employees are to be engaged by NAB.

Protection for third parties is achieved by removing the obligation of third parties to enquire as to the title of the assets and liabilities.

Recommendation Two of this report supports the adoption of specific legislation relating to each bank merger as enacted in Queensland and Victoria.

5.2 Victoria

Victoria has passed the *National Australia Bank and Bank of New Zealand Act 1997*. The Bill was introduced on 19 March 1997. The Bill passed through the Legislative Assembly on 10 April 1997 and the Legislative Council on 22 April 1997. It received Royal Assent on 29 April 1997.

The legislation facilitates the transfer of assets and liabilities of the Bank of New Zealand (BNZ) to the National Australia Bank (NAB). The Bill provides that all contracts and other instruments entered into by or made with the BNZ on the commencement of the Act are binding on the NAB as if the NAB had entered into them or made them. The Bill provides for the payment of an amount in lieu of the equivalent amount of all taxes, duties and charges liable by the parties.

Recommendation Two of this report supports the adoption of specific legislation relating to each bank merger as enacted in Victoria and Queensland.

5.3 New South Wales

New South Wales has passed the *Bank Mergers (Applications of Laws) Act 1996* which was assented to on 25 September 1996. This Act makes provision for extending the application in the State of New South Wales of laws of other States or Territories relating to the mergers of banks. It also passed the *Bank Merger Act 1996* which was assented to on 4 December 1996 which makes provision to facilitate the merger of banks and to enable regulations to be made for that purpose. Western Australia has followed this

example.

5.4 Western Australia

The *Banks Mergers Bill 1997* was introduced into the Western Australian Legislative Assembly on 29 April 1997. The Bill provides that -

- Legislation passed by any State or Territory concerning the merger of banks can be applied as a law of Western Australia.
- The laws apply to Western Australia by an Order to be tabled in the same manner as a regulation.

The Bill establishes a general framework which allows bank mergers to be dealt with by either -

- a set of case specific regulations which will have the same effects as the previous specific legislation; or
- an order adopting the relevant law of another State or Territory with modifications as necessary; or
- a combination of those two mechanisms.

6. ADVANTAGES OF USING GENERAL BANK MERGERS LEGISLATION

The Standing Committee has considered the *Bank Mergers Bill 1997* and the advantages of using general bank mergers legislation are -

- It reduces legislative pressures that are being generated by the requirement for all affected jurisdictions to pass specific enabling legislation.
- Parliament will not be excluded from the process as the regulations or orders required for each specific merger will be subject to parliamentary scrutiny as with other subsidiary legislation.
- The purpose of the legislation is to ensure less time consuming and less expensive administrative processes for the documentation of the assets and liabilities associated with a merger.
- Western Australia is not compelled to accept the legislation of another jurisdiction in the form it is enacted, the State can exclude or modify or add as it sees fit.
- The amendments in the source jurisdiction do not apply automatically [clause 15(2)]. They take effect only if specifically applied by another order made under clause 17(3).
- The Bill does not affect the citizens of the State generally. The purpose of the bill is

purely one of commercial facilitation of a very specific nature.

- Each order will have a once only effect. Transactions will occur on a specified day or for a limited period and will not have any ongoing effect beyond that.
- There can be a debate on a disallowance of the order.
- Orders will be treated as though they were regulations by applying section 42 of the *Interpretation Act 1984* (see Appendix Four).

7. DISADVANTAGES OF USING GENERAL BANK MERGERS LEGISLATION

The Standing Committee considers that the disadvantages of using general bank mergers legislation arise because of concerns that -

- The mechanism used provides for the executive to declare laws and by-pass the scrutiny of the Parliament.
- The opportunity for parliamentary scrutiny of legislation is optimal when a Bill is introduced, but diminishes when regulations or orders are used to adopt legislation of another jurisdiction. The adoption of legislation of another Parliament by order, diminishes the opportunity for parliamentary scrutiny, because Bills are usually debated, but debate on orders requires a disallowance motion to be moved in the first instance and then allocation of time in the House to debate the disallowance motion in the second instance.
- The Bill proposes a new procedure for dealing with mergers. It allows bank mergers to be dealt with outside the parliamentary process by either a set of case-specific regulations which will have the same effect as the previous specific legislation or an order adopting the relevant law of another State or Territory with modifications as necessary.
- The problem for parliamentary scrutiny in the Legislative Assembly is that the notice of motion to disallow a regulation does not have to be dealt with.
- The legislation provides for regulations to override other Acts in specific areas, but applying only to the specific purposes of the legislation.
- The purpose of the Bill is to facilitate a merger which has been agreed to by authorities over which Western Australia has no jurisdiction.

8. CONSIDERATION OF DIFFERENCES

The Standing Committee considers that differences exist with proposals for legislative uniformity in the *Bank Mergers Bill 1997* as compared with other proposals for uniform legislation considered by this Committee. They include -

- The Bank Mergers legislation does not give away power to another jurisdiction.
- The procedures set up by the Bill deal with orders instituting laws from another State or Territory into Western Australian law are the same as in subsidiary legislation. Normally orders of this sort are not tabled in Parliament. However, in this case the legislation indicates they must be tabled and can be disallowed as is required under section 42 of the *Interpretation Act 1984*. (See Appendix Three).
- The Bill does not apply generally to Western Australians.
- The Bill is specific to a commercial transaction.
- The Order or Regulation must be tabled in the Western Australian Parliament and would be subject to disallowance.
- The Bill does not affect the merger of the banks. It is merely a mechanism for the State to collect revenue (stamp duty).

9. CONCLUSIONS

While generally the principle of adopting another Parliament's legislation should be avoided or at least the substantive legislation should be made available to Members, this particular legislation while breaching that principle is not a law which affects Western Australians generally but is merely a mechanism for the collection of revenue.

The Standing Committee has reservations about the principle of adopting another Parliament's legislation, or not introducing specific primary legislation. However, in this case -

- Any legislation would not affect the merger as it is not within the Western Australian jurisdiction.
- The Bill sets up a regulatory framework which allows the Treasurer to calculate fees in the assessment of stamp or mortgage duty or on any other transaction.
- The Parliament quite often adopts model legislation on specific matters.
- Parliament has the right to amend regulations and under the legislation orders applying legislation of other States will be treated like regulations, therefore, Parliament has the right to amend the regulations or the orders.

- Without the legislation, transferring assets and liabilities between the merged entities would have to occur on a case by case basis with the consent of each party to the asset or liability. Equally the taxing of those transfers would occur on a case by case basis, which would involve considerable expense and administrative inconvenience for both the commercial business and the State Government.
- The legislation provides for the bulk transfer of assets and liabilities and taxing of the document transfers either by a case specific set of regulations or an order applying the law of another State in Western Australia.
- The legislation provides executive discretion and parliamentary discretion to vary the regime, whether it is the regime as implemented by regulation or by orders.

10. RECOMMENDATIONS

The Standing Committee in accordance with its brief to provide Parliament with an effective mechanism to scrutinise intergovernmental agreements and legislative schemes and after considering the *Bank Mergers Bill 1997* and the circumstances for its enactment has made the following recommendations -

Recommendation One

That Recommendation 11 of the 1996 Final Report of the Select Committee on Procedure be adopted.

The Recommendation is to amend Standing Orders as follows -

- (1) **That a category of disallowance of delegated legislation be created for the notice paper and that it appear after business of the house and before Government business.**
- (2) That Routine of Business Standing Order 82 be amended by deleting paragraph (f), and substituting -
 - “(f) Business of the House;
 - (g) Disallowance of delegated legislation;**
 - (h) Other Motions and Orders of the Day, as set down on the Notice Paper, subject to Standing Orders 223 to 226 inclusive.”
- (3) That Standing Orders 213 and 214 be deleted and the following Standing Order be substituted -

“213. Motions shall take precedence in the following order -

 - (a) Urgent motion with or without notice directly concerning the privileges of the House;
 - (b) At the discretion of the Speaker, a motion with or without notice for a vote of thanks of the House or for a valedictory or condolence motion;
 - (c) Business of the House;
 - (d) Disallowance of Delegated Legislation where one calendar week has elapsed since notice of the motion was given;**

cont'd

Recommendation One cont'd

- (e) Other Motions and Orders of the Day as set down on the Notice Paper."
- (4) That Standing Order 223 be amended by inserting after "questions," the following -
- "Business of the House and disallowance of delegated legislation"**.
- (5) **That the responsible Minister introduce legislation to include in the *Interpretation Act 1984* provisions that provide -**
- (a) **If a motion for disallowance has not been dealt with by the House within 15 sitting days, then that delegated legislation is thereupon deemed to have been disallowed; and**
- (b) **If before the expiration of those 15 sitting days, the House is dissolved, expires, or the Parliament is prorogued, and the motion has not been withdrawn or otherwise disposed of, then the delegated legislation is deemed to have been laid before the House on the first sitting day after the dissolution, expiry or prorogation.**

The Standing Committee has noted the comments made by the Joint Standing Committee on Delegated Legislation in Report No. 19 -

- 2.6 In other words, the two reforms proposed by the Select Committee have competing objectives. On the one hand, it is sought to reduce the period of uncertainty over the validity of challenged subordinate legislation; and, on the other, it is sought to prolong the period of time in which Parliament has to scrutinise the subordinate legislation.⁴

However, the Standing Committee is seeking to prolong the period of time in which Parliament has to scrutinise delegated legislation. The Standing Committee supports the provision of increased opportunity to scrutinise legislation provided by 5(b) in Recommendation No. 1. The Standing Committee believes that this provision will also prevent the inadvertent disallowance of delegated legislation.

⁴ Western Australian Joint Standing Committee on Delegated Legislation, *The Committee's Response to the Final Report of the Legislative Assembly Select Committee on Procedure, Nineteenth Report, 1996*, Legislative Council, p. 2.

Recommendation Two

Notwithstanding Recommendation One, consideration be given in any future bank merger to the introduction of specific legislation as being the most efficient in terms of time and scrutiny.

After a request from this Standing Committee to support its proposals for the introduction of a Standing Order to require consultation and provision of information to the House in relation to Bills giving effect to uniform legislative schemes, the Select Committee on Procedure recommended a Sessional Order which is the Standing Committee's third recommendation.

Recommendation Three

That the Recommendation of the First Interim Report of the Select Committee on Procedure 1995 be adopted.

The Recommendation is as follows -

“That for the present session, the following order shall apply -

- (1) Subject to paragraph (3), on any Bill which gives effect to a formal or informal intergovernmental agreement or uniform legislative scheme involving the Commonwealth, State and Territories, or any combination of States and Territories without the participation of the Commonwealth, the Order of the Day for the Bill shall stand adjourned after the conclusion of the speech of the mover of the motion “that the Bill be read a second time”, until -

- (a) 120 days have passed since the Second Reading was moved;
- (b) the responsible Minister has tabled information on the following matters -

the background to the negotiations, the subject matter of the proposed uniform legislation, the model proposed to achieve legislative uniformity, the time schedule for the legislation and

cont'd

Recommendation Three cont'd

its implementation, the text of the draft agreements (if any) and a copy of the legislation and statutory instruments which are intended to implement the agreement or scheme; and

- (c) a report on the proposed matter has been tabled by the Standing Committee on Uniform Legislation and Intergovernmental Agreements.
- (2) If the report referred to in paragraph (1) (c) is not presented to the House within 6 sitting days of the expiry of the 120 day period, the House may proceed as if the report had been tabled on the sixth such sitting day.
 - (3) Notwithstanding paragraph (1), a Bill of the kind referred to in that paragraph may proceed past the motion for the Second Reading if -
 - (a) the information required under paragraph (1) (b) is tabled at least two weeks before the Bill is introduced to the House; and
 - (b) either a report on the proposed matter has been tabled by the Standing Committee on Uniform Legislation and Intergovernmental Agreements, or six sitting days have elapsed since the Second Reading of the Bill was moved.
 - (4) If the House is not sitting, a Minister may forward in writing any information referred to in paragraph (1) (b) to the Clerk of the Legislative Assembly and on receipt by the Clerk it shall be deemed to be tabled.
 - (5) A Bill of the kind referred to in paragraph (1) shall not be the subject of any motion under the allocation of time Sessional Order unless it would otherwise be able to proceed past the motion for the Second Reading in accordance with this order.”

Ministerial Response

Pursuant to Standing Order 378(c) of the Legislative Assembly of Western Australia, this Standing Committee directs that the Leader of the House, within three months, or at the earliest opportunity after that time, if Parliament is in adjournment or recess, report to the House as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

APPENDIX ONE

BANK MERGERS BILL 1997

(Include Bill here!)

APPENDIX TWO

*Standing Committee on Uniform Legislation and
Intergovernmental Agreements*

- Report No. 1:** *Establishment and Analysis: Establishment of the Standing Committee and Analysis of the Recommendations of the Select Committee*
- Report No. 4:** *Parliament and the Executive: Parliamentary Scrutiny and Review of Uniform Legislation and Intergovernmental Agreements*

The recommendation was that a new Standing Order 255A be inserted as follows:

"255A. On any Bill which gives effect to a formal or informal intergovernmental agreement or uniform legislative schemes involving the Commonwealth, States and Territories, or any combination of States and Territories without the participation of the Commonwealth, the Question for the second reading shall not be finally put and determined until -

- (a) the responsible Minister has tabled the following information -**

The background to the negotiations, the subject matter of the proposed uniform legislation, the model proposed to achieve legislative uniformity, the time schedule for the legislation and the text of the draft agreement (if any).

Should the House be in recess for any period, for the purposes of this Standing Order, information received by the Clerk of the Legislative Assembly will be deemed to be laid on the Table of the House.

- (b) at least three clear sitting days after a report on the legislation has been received from the Standing Committee on Uniform Legislation and Intergovernmental Agreements."**

APPENDIX THREE

*Standing Committee on Uniform Legislation and
Intergovernmental Agreements*

**Report No. 9: *Report concerning the various methods available for
Implementing the Australian Uniform Credit Laws
Agreement 1993 in Western Australia***

The recommendation was that a new Standing Order 255A be inserted as follows:

" 255A. (1) Subject to paragraph (3), on any Bill which gives effect to a formal or informal intergovernmental agreement or uniform legislative scheme involving the Commonwealth, State and Territories, or any combination of States and Territories without the participation of the Commonwealth, the Order of the Day for the Bill shall stand adjourned after the conclusion of the speech of the mover of the motion "that the Bill be read a second time", until -

- (a) 120 days have passed since the second reading was moved;**
- (b) the responsible Minister has tabled information on the following matters -**

the background to the negotiations, the subject matter of the proposed uniform legislation, the model proposed to achieve legislative uniformity, the time schedule for the legislation and its implementation, the text of the draft agreement (if any) and a copy of the legislation and statutory instruments which are intended to implement the agreement or scheme; and

- (c) a report on the proposed matter has been tabled by the Standing Committee on Uniform Legislation and Intergovernmental Agreements.**
- (2) If the report referred to in paragraph (1) (c) is not presented to the House within 6 sitting days of the expiry of the 120 day sitting period, the House may proceed as if the report had been tabled on the sixth such sitting day.**

- (3) Notwithstanding paragraph (1), a Bill of the kind referred to in that paragraph may proceed past the motion for the second reading if -**
- (a) the information required under paragraph (1) (b) is tabled at least two weeks before the Bill is introduced to the House; and**
 - (b) either a report on the proposed matter has been tabled by the Standing Committee on Uniform Legislation and Intergovernmental Agreements, or six sitting days have elapsed since the second reading of the Bill was moved.**
- (4) If the House is not sitting, a Minister may forward in writing any information referred to in paragraph (1) (b) to the Clerk of the Legislative Assembly and on receipt by the Clerk it shall be deemed to be tabled.**

APPENDIX FOUR

INTERPRETATION ACT 1984**SUBSIDIARY LEGISLATION**

The *Bank Mergers Bill 1997* provides that the Governor may by order published in the *Gazette* declare a law of another State or Territory providing for or relating to the merger of banks to be a law of Western Australia.

The Bill also provides that section 42 of the *Interpretation Act 1984* applies to an order as if the order was a regulation.

Extracted below is section 42 of the *Interpretation Act 1984*.

Laying regulations, rules, local laws and by-laws before Parliament, and disallowance

42. (1) All regulations shall be laid before each House of Parliament within 6 sitting days of such House next following publication of the regulations in the *Gazette*.

(2) Notwithstanding any provision in any Act to the contrary, if either House of Parliament passes a resolution disallowing any regulations of which resolution notice has been given within 14 sitting days of such House after such regulations have been laid before it or if any regulations are not laid before both Houses of Parliament in accordance with subsection (1), such regulations shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done or of the omission of anything in the meantime.

(3) Subsection (2) applies notwithstanding that the period of 14 days referred to in that subsection, or part of that period, does not occur in the same session of Parliament or during the same Parliament as that in which the regulations are laid before the House concerned.

(4) Notwithstanding any provision in any Act to the contrary, if both Houses of Parliament at any time pass a resolution originating in either House amending any such regulations or substituting other regulations for that which has been disallowed by either House under subsection (2), then on the passing of any such resolution —

- (a) amending regulations, the regulations so amended shall, after the expiration of 7 days from the publication in the *Gazette* of the notice provided for in subsection (5), take effect as so amended;**
- (b) substituting regulations in place of regulations disallowed, the regulations so substituted shall, after the expiration of 7 days from the publication in the *Gazette* of the notice provided for in subsection (5), take effect in place of that for which the regulations**

are so substituted.

(5) When a resolution has been passed under subsection (2) or (4), notice of such resolution shall be published in the *Gazette* within 21 days of the passing of the resolution.

(6) Notwithstanding section 37 (1), where —

- (a) regulations are disallowed under this section or are not laid before both Houses of Parliament in accordance with subsection (1); and
- (b) those regulations amended or repealed regulations that were in operation immediately before the first-mentioned regulations came into operation,

the disallowance or failure to comply with subsection (1) revives the previous regulations on and after the day of the disallowance or, in the case of failure to comply with subsection (1), on and after the day next following the last day for compliance with subsection (1).

(7) If a written law empowers or directs the making of regulations by a person other than the Governor and requires that the regulations be confirmed or approved by the Governor or by any other person or authority before having the force of law, subsection (1) does not apply to such regulations unless they have been confirmed or approved as so required.

(8) In this section —

- (a) a reference to regulations shall be construed as including a reference to a regulation or part of a regulation; and
- (b) "regulations" includes rules, local laws and by-laws.

[Section 42 amended by No. 14 of 1996 s.4.]