



**STANDING COMMITTEE ON PUBLIC
ADMINISTRATION**

FIFTH REPORT

on its inquiry into the

HAIRDRESSERS REGISTRATION REPEAL BILL 1997

**Presented by The Hon Kim Chance MLC
(Chairman)**

**5
DECEMBER 1997**

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ISBN 0-7309-8875-5

TABLE OF CONTENTS

Terms of Reference for the Standing Committee on Public Administration	1
Terms of Reference for the Inquiry and Introduction	3
The Issue	3
Evidence	5
Findings	9
Recommendations	11

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**TERMS OF REFERENCE FOR THE STANDING COMMITTEE ON
PUBLIC ADMINISTRATION**

Schedule 1 of the Standing Orders establishes the Standing Committee on Public Administration. The Terms of Reference for the Standing Committee are:

- "1. A Standing Committee on Public Administration is established.
2. The Committee consists of 6 members.
3. The functions of the Committee are:
 - (1) to inquire into and report to the House on the means of establishing agencies, the roles, functions, efficiency, effectiveness, and accountability of agencies and, generally, the conduct of public administration by or through agencies, including the relevance and effectiveness of applicable law and administrative practises;
 - (2) to consider and report on any bill referred to it by the House providing for the creation, alteration or abolition of an agency, including abolition or alteration by reason of privatization; and
 - (3) except as provided in Standing Order 367(c), the Committee shall not proceed to an inquiry whose sole or principal object would involve consideration of matters that fall within the purview, or are a function, of another Committee.
4. In this order:

"Agency" means-

 - (a) an agent or instrumentality of the State Government, established for the purpose of developing, implementing or administering any program or policy with a public purpose or any such program or policy that relies substantially for its development, implementation or administration on public monies or revenue;
 - (b) any person empowered by a written law to make a decision enforceable at law whether by that person or otherwise,

and, where appropriate, includes any agency officer or employee acting, or having ostensible authority to act, as the agent or delegate of the agency, but does not include:

 - (c) a House of the Parliament, or any Committee or member of either House, or any officer or employee of a department of the Parliament;
 - (d) a court of law or a court of record, or a judge or other member of either court;

- (e) any person whose functions are solely of an advisory nature and the failure to obtain or act in accordance with advice given by that person does not invalidate or make voidable a decision made by another person;
- (f) a police officer or other person in the course of exercising a power conferred by a written law to arrest or charge a person with the commission of an offence, or to enter premises and seize or detain any object or thing;
- (g) a local government within the meaning of the Local Government Act 1995;"

1. TERMS OF REFERENCE FOR THE INQUIRY AND INTRODUCTION

- 1.1 In 1995, the Government Agencies Committee tabled its 37th report (“37th report”) on the Hairdressers Registration Repeal Bill 1994 (“the Bill”). In 1996, the Bill was passed in the Legislative Council, and read a second time in the Legislative Assembly. The Bill did not proceed past that stage.
- 1.2 On 17 September 1997, the Hairdressers Registration Repeal Bill 1997 was referred to the Standing Committee on Public Administration (“the Committee”), which replaced the Government Agencies Committee in November 1996. There are no changes in the 1997 Bill from the Bill that was introduced into Parliament in 1996. It is evident that many of the recommendations of the 37th report have not yet been implemented, including the main recommendation of the Government Agencies Committee to abolish the Hairdressers Registration Board (“HRB”).
- 1.3 Pursuant to Standing Order 339 of the Legislative Council, a Subcommittee consisting of the Hon Barbara Scott MLC and the Hon Cheryl Davenport MLC was created by the Committee to assist in the taking of evidence for this inquiry.
- 1.4 The Subcommittee commenced its inquiries by reviewing the 37th report, and further examining the current structure and state of the hairdressing industry in 1997. In addition, the Subcommittee has had discussions with employers, workers, industry groups, training experts, union representatives, and other interested parties, as well as receiving written submissions from various individuals and groups.
- 1.5 The Committee’s focus in this inquiry has been to ensure that the well being of consumers, employers and employees within the industry is maintained and enhanced. In addition, the Committee wishes to encourage proper industry representation, and uniformity of standards across the industry.
- 1.6 The Committee is thankful for the assistance provided by the Minister for Employment and Training, the State Training Board, and all persons and groups who have contributed to the debate during this inquiry.

2. THE ISSUE

- 2.1 In 1995, the Standing Committee on Government Agencies tabled its 37th report in the Legislative Council on the Hairdressers Registration Repeal Bill 1994 (“the Bill”)¹. In its 37th report, the Committee made a number of recommendations regarding the Bill, including:
 - 2.1.1 the abolition of the HRB on the grounds that, amongst other issues, its ambit of activity had greatly diminished over time;²

¹ 37th Report of the Standing Committee on Government Agencies, November 1995.

² Supra page 4.

- 2.1.2 if there is a statutory successor to the HRB, the funds contributed as annual fees to the HRB should be transferred to the new body, with powers to levy fees and to cover costs³;
- 2.1.3 should there be no statutory successor to the HRB, the HRB's funds should be placed at the Minister's disposal for use in assisting the industry;⁴
- 2.1.4 the establishment of a Hairdressing Industrial Training Council having sole responsibility for training and skills development within the industry⁵;
- 2.1.5 the establishment of an advisory body by the Minister, representing all sectors of the industry, for the industry to express its views on matters affecting hairdressing⁶; and
- 2.1.6 whatever form of regulation of the industry is adopted, it should be directed towards licensing both hairdressers and the working environment, and should be administrative in nature (as opposed to legislative)⁷.
- 2.2 In 1997, the Committee has undertaken a review of the recommendations of the 37th report, and endorses its general findings and recommendations. The Committee has also taken the opportunity to review the state of the industry, and to revisit the issues raised by the Government Agencies Committee in its 37th report.
- 2.3 As part of this process, the Subcommittee has compared the industry in WA with the current South Australian model. The hairdressing industry in South Australia was de-registered in 1988. At present, there are proposals in South Australia to 're-register' the hairdressing industry under a co-regulation model. Co-regulation provides that responsibility for the administration of an industry is to be shared by government and industry. Government provides the legislative base from which the industry regulates its own affairs. This model has served as a useful comparison for the Committee in addressing many of the issues raised by this inquiry.
- 2.4 The Committee has also examined the co-regulation model of the motor vehicle repair industry in NSW, which was implemented by Government in 1980, and supported by industry. The model is very similar in structure to many of the proposals put to the Committee about the proposed changes in the South Australian hairdressing industry.
- 2.5 The Committee has taken further evidence on the issues raised by the Bill, and has conducted its own inquiries and investigations into the impact of the Bill, and the current and future

³ Supra, pages 6, 7.

⁴ Ibid.

⁵ Supra, page 5.

⁶ Supra, page 7.

⁷ Supra, page 6.

state of the hairdressing industry. The major concern for the Committee (and for most parties involved in the industry) is what will replace the HRB if it is abolished.

3. EVIDENCE

- 3.1 In her letter to the Hon Kim Chance (as Chairman of the Committee) dated 13 November 1997, the Minister for Employment and Training advised the Committee about the Government's involvement in underpinning standards within the industry if the HRB is to be abolished. This includes the passing of complementary legislation which will render it an offence for a hairdresser to operate without an appropriate qualification, either from the TAFE system, or from an accredited private provider⁸. The Minister states that "(t)his will bring a focus to the skills and qualifications of hairdressers, while at the same time remove the burden on hairdressers of having to pay an annual registration fee for being qualified"⁹. On the abolition of the HRB, there would be no requirement for registration of hairdressers, and regulation of the industry would be through a complaints based system, probably implemented through the Ministry of Fair Trading (although this is to be confirmed).
- 3.2 Although the Committee endorses the removal of the registration requirement for hairdressers as it currently stands, and acknowledges the role of the Ministry of Fair Trading in the ongoing monitoring of the industry, the Committee would encourage a review process which was not purely reactive, but operated in a proactive manner to afford protection and awareness for employees and clients. The Committee sees a role for an ongoing advisory body, representing all sectors of the industry with its own powers of review and inspection. This is consistent with the recommendations of the 37th report.¹⁰
- 3.3 An example of such a model exists in the motor vehicle repair industry in NSW. A Motor Vehicle Repair Industry Review Committee was established to review the Western Australian motor vehicle repair industry. As part of this process, the Review Committee closely examined the NSW model, publishing its report in December 1992. This report was forwarded to the then Minister for Consumer Affairs.
- 3.4 In 1993, the Western Australian Coalition Government, through the Minister for Fair Trading, established a smaller committee to continue investigating the possibility of a co-regulation model of the motor vehicle repair industry, adapted to Western Australia's unique geographical circumstances.
- 3.5 This second report recently was forwarded to the Minister for Fair Trading. It recommends that Western Australia adopt a co-regulation model of operation and the notion has the support of repair outlets as well as employees throughout the industry. Based on the successful NSW model, it will legislate to enable the motor vehicle repair industry to set up a licensing system which allows a Council to be financially self-supporting, and ultimately

⁸ *Hairdressing Registration Act 1997.*

⁹ Letter from the Minister for the Environment, Employment and Training to the Hon Kim Chance, Standing Committee on Public Administration dated 13 November 1997.

¹⁰ 37th Report of the Standing Committee on Government Agencies, page 7.

to be self-regulating with minimal government intervention, but backed by a legislative framework. Components of co-regulation in NSW include the establishment of a Motor Vehicle Repair Industry Council, which is designed to improve standards within the industry, and prevents the operation of unqualified 'backyarders'. It also creates a Motor Vehicle Repair Disputes Committee, which quickly investigates and determines disputes between vehicle owners and repairers over workmanship and costings. The Council is also empowered to take disciplinary action against both licensed repairers and certificate holders on various grounds, such as conviction for dishonest conduct and work below trade standards.¹¹ The Committee suggests that such a model could be transposed to the hairdressing industry in Western Australia if properly structured and implemented.

- 3.6 A further component of the co-regulation model is financial independence. Three distinct and separate funds are managed under the NSW Motor Vehicle Repair Industry Council. A general fund, the contingency fund, and the education and research fund. The names of each of the funds is reflective of their role. The functions of each of these bodies is outlined in detail in the Motor Vehicle Repair Industry Review Committee's report of December 1992.¹² The Committee would endorse the model outlined in the Review Committee's report as a possible basis on which to restructure the hairdressing industry in Western Australia.¹³
- 3.7 Another aspect of the gathering of evidence for this inquiry involved the Committee examining the state of the 'de-registered' hairdressing industry in South Australia.
- 3.8 In South Australia, the *Hairdressers Registration Act 1939* was repealed in 1988. The present requirements are that hairdressers must hold prescribed qualifications to operate as a hairdresser, and new legislation sets penalties for unqualified persons conducting a hairdressing business for fee or reward. This is very similar to the legislation proposed by the Minister in Western Australia. However, a current proposal by employers in South Australia is to set up a more regulated model that requires all qualified hairdressers to hold a current qualification certificate.
- 3.9 These certificates would then be issued and verified by an incorporated tri-partite entity created by legislation which would operate under the supervision of the Hair and Beauty Industry Employers' Association of South Australia (HBIA). This entity would be empowered to set fees for the issue of practising certificates, the inspection of premises, or any service related to the regulation of the industry thought necessary by the entity. The established body would also be administered by a Board of Management comprised of the HBIA, union representatives, Government, and industry. This co-regulation model could be considered by the Minister in reworking the hairdressing industry in Western Australia.
- 3.10 In addition, the Committee has received information from the State Training Board outlining the Vocational Education and Training Legislation 1996 (VET), which currently underlies the key elements of the training system in this State. The hairdressing industry falls within

¹¹ See Twelfth Annual Report of the NSW Motor Vehicle Repair Industry Council 1991-1992, pages 23 and 39 for an outline.

¹² At page 18.

¹³ See also 1997 Report of smaller committee.

this current VET framework. The framework has various components, the key aspects being the State Training Board, the Industry Training Councils, the Training Accreditation Council, and the autonomous training colleges (TAFE). It is apparent, on the evidence before the Committee, that TAFE colleges also have a role in assessment and accreditation being able, in some circumstances, to accredit their own courses, and some courses provided by private providers and product suppliers.

- 3.11 As part of the VET framework, the State Training Board is responsible for determining the State's training needs. It also provides advice to the Minister on training policy, strategic issues, and the overall performance of the State training system.
- 3.12 The Industry Training Councils (ITCs), of which there are 14 in the State, are autonomous industry-based associations comprised of representatives from employers, employees, and other interested parties within the industry. Funded from the State and Federal Governments, the ITCs advise the State Training Board and the Department of Training on the current and future training needs of industry, and provide advice in relation to training reform initiatives.
- 3.13 The Wholesale, Retail and Personal Services ("WRAPS") ITC is responsible for the overview of training within the hairdressing industry. To this end, a hairdressing sub-committee has been set up under the WRAPS ITC umbrella. As its name suggests, the WRAPS ITC has a wide purview of industries within it, and is not solely dedicated to the needs of the hairdressing industry.
- 3.14 While the Committee acknowledges that the hairdressing industry may have a voice through its representatives on the WRAPS ITC, the Committee is concerned that there may be inadequate representation of the industry through this mechanism. The Committee would endorse the recommendation contained in the 37th report that consideration should be given to the creation of a Hairdressing ITC or like body, having sole responsibility for training and skills within the industry.¹⁴
- 3.15 The Committee has also received some information on the role of the Training Accreditation Council which also operates within the VET framework. This Council, as its name suggests, is responsible for accreditation of courses and registration of providers of training within the industry, the development and endorsement of competency standards, and the recognition of prior learning.
- 3.16 The Committee considers it essential, that as it currently stands, the Training Accreditation Council works closely with the WRAPS ITC (and in particular, its hairdressing subcommittee). The Committee would prefer the creation of an independent authority specific to the hairdressing industry, to ensure that competency standards are achieved and endorsed, and that prior learning is recognised to reduce duplication of training effort, and inconsistencies in training requirements and procedures.

¹⁴ Supra, page 5.

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4. FINDINGS

- 4.1 The hairdressing industry is in need of overall reform, the initial and major reform being the abolition of the requirement for registration as it now stands, the dismantling of the HRB, and a comprehensive review of training to ensure that the hairdressing industry in Western Australia complies with the national competency framework;
- 4.2 There is a potential for the hairdressing industry not to be adequately represented under the current system where it falls within the broad ambit of the WRAPS ITC. It should be noted that the motor vehicle repair industry in Western Australia has removed itself from within the WRAPS umbrella, and is now operating under its own ITC (although at this stage, the new ITC has not been funded by Government);
- 4.3 There are strong arguments to support the notion that total deregulation of the industry is undesirable because of the possible detriment to standards of skill and care, although the Committee finds that if any form of registration within the industry is maintained, it should be directed towards licensing the working environment, and should be administrative in nature. This would enable any successor of the HRB to be financially self-supporting, and to be monitored within a co-regulation environment;
- 4.4 The Committee endorses the introduction by Government of complementary legislation to render it illegal to operate as a hairdresser when unqualified. The Committee finds, however, that the complaints based mechanism proposed by the State Training Board may not be sufficient to provide ongoing monitoring of the industry to the extent considered desirable by the Committee. The Committee bases this finding on the fact that action would only be instigated when a formal written complaint is forwarded to the Ministry. The Committee would prefer a more structured approach, such as that outlined in paragraph 3.5 of this report, which provides for inspection, review, monitoring, dispute resolution and disciplinary proceedings to be implemented if and when appropriate.
- 4.5 The Committee acknowledges that the hairdressing industry is subject to general safeguards arising from legislation in occupational health, public health, consumer protection and a range of other requirements applicable to industries across the board. Given the specialised nature of the hairdressing industry, however, the Committee would encourage the creation of an ongoing advisory body within the industry, consistent with the recommendation of the 37th report of the Government Agencies Committee in 1995.¹⁵
- 4.6 The Committee reiterates the finding of the Government Agencies Committee in its 37th report that “despite the existence of the HRB and the professional associations, ...new, more representative consultative mechanisms are required.”¹⁶

¹⁵ Supra, pages 6, 7.

¹⁶ Ibid.

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5. RECOMMENDATIONS

The Committee recommends:

- 5.1 that the HRB be abolished, for the reasons outlined in the 37th report of the Government Agencies Committee;
- 5.2 that an ongoing education strategy be developed, to facilitate increased consumer awareness of available grievance procedures, should clients be dissatisfied with a particular hairdressing service;
- 5.3 that an ongoing education strategy be developed to increase awareness both for principals, people working within the industry and consumers, about issues such as occupational health and safety legislation, and general legal rights and obligations;
- 5.4 to this end, the Committee recommends the development of accessible literature, to form part of an educative process for the industry and consumers alike;
- 5.5 that there be a continuous updating of industry by the Department of Training in respect of products and services within the industry;
- 5.6 that the Minister establish an ongoing advisory body, representative of all sectors of the industry and consumers, to enable the industry to express its views on matters affecting hairdressing¹⁷, and not just be confined to overseeing the current changes in the industry;
- 5.7 that consideration be given to the development of a separate Hairdressing ITC or similar body, having sole responsibility for training and skills development within the industry. The Committee suggests that the Hairdressing ITC or similar body should be protected by a legislative framework, either to be considered cognately with the Bill, or combined in an Amendment Act. If the existing structure was to remain, however, and the current WRAPS ITC was to maintain its overview of the hairdressing industry, the Committee recommends that the concerns raised in this report (such as training, monitoring, regulation, funding, evaluation, recognition of competencies etc) be clearly identified and specifically addressed by the WRAPS ITC as soon as possible;
- 5.8 that consideration be given to the establishment of an independent authority vested in a co-regulation model, *separate from* the Hairdressing ITC or similar body outlined in paragraph 5.7 above, having sole responsibility for the assessment and verification of qualifications, competencies, recognition of prior learning, and also with the power to licence, and to collect fees. This independent assessment body also should be protected by a legislative framework, consistent with a co-regulation model;
- 5.9 a system whereby surplus moneys accredited to the HRB's account at the time of the passing of the Bill be kept outside the Department of Training, and be used to set up a mechanism to assess and ensure recognised national standards of competency (either as part of the existing WRAPS ITC, or in furtherance of establishing an independent authority as outlined

¹⁷ Supra, page 7.

- in paragraph 5.8 above). Ongoing funding for this mechanism could be provided by the licensing of the work environment on an annual basis, and possibly by the levy of a one-off registration fee for the hairdressing professionals, as has been implemented as part of the co-regulation of the motor vehicle repair industry in NSW;
- 5.10 that this mechanism could also provide for routine inspection of premises, and the maintenance of high standards of competency within the industry which the Committee considers essential. There has been evidence before the Committee that as it currently stands, health inspectors never visit salons to ensure maintenance of health safety and hygiene standards. The Committee recommends that such monitoring take place given that there are real risks of cross-contamination, and daily use of sharp implements near vital organs on an everyday basis;
- 5.11 that any remaining funds from the dismantling of the HRB be used to motivate excellence within the industry, for example in furtherance of a 'Trainee of the Year Award', or 'Salon of the Year Award'. This recognition of achievement could be ongoing, supported by the funds generated from the licensing of the hairdressing work environment under a co-regulation model;
- 5.12 that consideration be given to the proposition that any remaining funds from the dismantling of the HRB be used to establish the first year of operation of a co-regulation model; and
- 5.13 that there is a need for improved industry standards to be developed, including an industry Code of Practice to be created and implemented with full industry consultation.

Hon Kim Chance MLC
Chairman

December 1997