



1996

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

REPORT

on

POSITION PAPER:

**SCRUTINY OF NATIONAL
SCHEMES OF LEGISLATION**

Thirteenth Report
In the Thirty-Fourth Parliament

Presented by
Hon. P. G. Pandal, MLA
Laid on the Table of the Legislative Assembly
on 17 October 1996.

ORDERED TO BE PRINTED

COMMITTEE MEMBERS

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TERMS OF REFERENCE

On Wednesday 4 August 1993 the Legislative Assembly established the Standing Committee on Uniform Legislation and Intergovernmental Agreements with the following terms of reference:

1. 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; and
 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.
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INTRODUCTION

This Report is the consolidation of three year's work by the Legislation Committees from nine Australian Parliaments, which resulted in the adoption on Friday 16 August 1996 in Canberra of the attached *Position Paper on the Scrutiny of National Schemes of Legislation*, (see Appendix 1), by the Working Party of Representatives of Scrutiny of Legislation Committees' throughout Australia.

The *Position Paper* is a further development of the work presented in this Committee's Tenth Report *Scrutiny of National Scheme Legislation and the Desirability of Uniform Scrutiny Principles*, which was tabled in the Legislative Assembly on 31 August 1995.

By way of background, this Committee was initially invited as an observer to a working meeting of Parliamentary Scrutiny Committees in October 1994. At that meeting the Western Australian Legislative Assembly Standing Committee on Uniform Legislation and Intergovernmental Agreements was asked to address the meeting and provide an overview of national uniform legislative schemes and parliamentary scrutiny.

The eleven Legislative Scrutiny Committees, including this Committee, then investigated the problem of properly scrutinising uniform legislative schemes, relying heavily on the expertise of this Committee.

A Working Party of Representatives of Scrutiny of Legislation Committees throughout Australia produced a *Discussion Paper* which was adopted at the Fifth Australasian Pacific Conference of Delegated Legislation, and the Second Australasian and Pacific Conference of Scrutiny of Bills Committees in Darwin in July 1995.

The *Discussion Paper* called for public comments. The submissions received as a result of the *Discussion Paper* have been considered and form part of the final *Position Paper*.

A number of conferences were held involving Parliamentary Scrutiny Committees from all jurisdictions to finalise the *draft Position Paper on the Scrutiny of National Schemes of Legislation* including a Conference in Perth in May 1996 (see Appendix 2 for transcript) which was chaired by the Hon. Phillip Pental, Chairman of this Committee. The *Position Paper* was adopted by all parliamentary legislative scrutiny committees in Canberra in August this year. (See Appendix 2 for transcript).

The *Position Paper* (see Appendix 1) outlines proposals to ensure parliamentary scrutiny of national scheme legislation. It also proposes a model for the implementation of uniform scrutiny principles and recommends the establishment of a National Committee for the Scrutiny of National Schemes of Legislation.

This Standing Committee requests that the *Position Paper* now goes before the Council of Australian Governments (COAG) for consideration and adoption.

Parliamentary Direction

In accordance with Standing Order 378(c), of the Legislative Assembly of Western Australia, this Standing Committee directs that the Premier be required within not more than three months, or at the earliest opportunity after that time if Parliament is in adjournment or recess, to report to the House as to any action, if any, proposed to be

taken by the Government with respect to the request for this Report to be submitted to COAG for consideration and adoption.

APPENDIX 1

SCRUTINY OF NATIONAL SCHEMES OF LEGISLATION

Position Paper

**By the Working Party of Representatives of Scrutiny
of Legislation Committees throughout Australia**

APPENDIX 2**TRANSCRIPTS**

- (i) Meeting in Perth, Friday 31 May 1996**
- (ii) Conference Call, Friday, 5 July 1996**
- (iii) Meeting in Canberra, Friday, 16 August 1996**