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Standing Committee on Justice and Community Safety
(Incorporating the Duties of a Scrutiny of Bills and Subordinate Legislation Committee)



Legislative Assembly
for the Australian Capital Territory

Scrutiny Report **No. 4** of **2000**

on the

**Second Meeting of Chairs and Deputy Chairs
of Australian Scrutiny
of Primary and Delegated Legislation Committees**

14-15 February 2000

Parliament House
DARWIN
NORTHERN TERRITORY

28 March 2000

Standing Committee on Justice and
Community Safety
(incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)

MEMBERS

Chair	Mr Paul Osborne, MLA
Deputy Chair	Mr John Hargreaves, MLA
Members	Mr Harold Hird, MLA
	Mr Trevor Kaine, MLA
Secretary	Mr Tom Duncan (Scrutiny of Bills and Subordinate Legislation Committee)
Assistant Secretary	Ms Celia Harsdorf (Scrutiny of Bills and Subordinate Legislation Committee)
Legal Adviser	Mr Peter Bayne

Role of the Committee
The Committee examines all Bills and subordinate legislation presented to the Assembly. It does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of totally non-partisan, non-political technical scrutiny of legislation. These traditions have been adopted, without exception, by all scrutiny committees in Australia. Non-partisan, non-policy scrutiny allows the Committee to help the Assembly pass into law Acts and subordinate legislation which comply with the ideals set out in its terms of reference.

1. Introduction

This is a report of the Committee's attendance of the meeting of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees. The meeting was held at Parliament House in Darwin, Northern Territory from 14-15 February 2000 and was hosted by the Northern Territory Subordinate Legislation and Publications Committee.

The meeting was attended by representatives of scrutiny committees from Australian States and Territories, with the exception of the Australian Senate, (which was sitting and was represented by the Secretary to the Standing Committee on Scrutiny of Bills). A list of attendees is at Attachment 1.

The ACT was representatised by Mr John Hargreaves, MLA (Deputy Chair), Mr Tom Duncan (Secretary) and Mr Peter Bayne (Legal Adviser). Due to the sittings of the Assembly, Mr Hargreaves and the Secretary left on Tuesday to return to Canberra.

2. Resolutions passed

The Conference agreed to the following resolutions on 15 February.

- 2.1. This meeting remains committed to the resolution carried by the July 1999 Sydney Conference to establish a formal system of national scrutiny of National Scheme of Legislation (NSL).

This meeting defines NSL as any legislation which is enacted or made or proposed to be enacted or made, in more than one Australian jurisdiction as a result of an intergovernmental agreement.

Being mindful of the divergent views expressed at this meeting but wishing to move forward as a group on the establishment of such a national committee, this meeting resolves to:

- (a) ensure that a regular exchange of information and views takes place;
- (b) ensure that all Federal, State and Territory Committees receive the earliest possible advice of any proposed or potential NSL and assign a staff member from each Committee for that purpose;
- (c) request that the Working Party make further recommendations concerning the establishment of a formal national committee;
- (d) enable the Federal, State and Territory Committees to address the issues identified;
- (e) request that the Working Party report on their activities and present further recommendations at the biennial conference.

- 2.2. The following dates be the future meeting dates of the Working Group of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees.

Date	Year	City
May	2000	Brisbane
October	2000	Alice Springs
February	2001	Tasmania
May	2001	TBA*
October	2001	TBA
February	2002	TBA
May	2002	TBA
October	2002	TBA
May	2003	TBA

*TBA = to be advised

- 2.3. That:

- (a) this meeting formalises the Working Group of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees to elect a national Executive;
- (b) the national Executive shall have a national Chairperson, one Senior Vice-President and 4 Vice-Presidents;
- (c) after the election of a national Chairperson that the Senior Vice-President be:

- (i) a Chair or Deputy Chair;
 - (ii) a member of another political party and thereafter the other 4 Vice-Presidents be members of other political parties. (For example the Chairman was Liberal, the Senior Vice-Chairman would be ALP, first Vice-President would be National Party, second Vice-President would be ALP and so forth.)
- (d) the National Chairperson hold office for a period of two years and that the position rotates;
- (e) a vacancy be filled from a person of the same party and same State, as long as they are Chairs and Deputy Chairs;
- 2.4. That 4 members from this meeting attend Canberra whilst the National Parliament is in session and before the end of March to appraise Senator Cooney's and Senator Coonan's respective Committees of the deliberations and resolutions of this meeting.

3. The Conference proceedings

Detailed below is a short description of the conference proceedings. The full conference agenda is attached at Attachment 2. Copies of the meeting pages may be inspected by contacting the Committee Secretary on (02)6205 0171.

3.1. Opening by the Chairman of the Northern Territory Committee

Mr Steve Balch, MLA, Chairman of the Subordinate Legislation and Publications Committee of the Northern Territory, opened the meeting and welcomed all participants.

3.2. Resolutions of First Meeting of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees

Mr Peter Nagle, MP (NSW) chaired a discussion of the resolutions agreed to at the previous meeting of Chairs and Deputy Chairs held in Sydney in March 1998. A copy of the resolutions are at Attachment 3.

3.3. Applicability of OECD Recommendations to Australian Scrutiny Committees

Mr Peter Nagle, MLA (NSW) chaired a discussion on the applicability of OECD recommendations to Australian Scrutiny Committees. It followed from a review of the NSW regulatory impact assessment by the Public Management Service of the OECD which was conducted in 1998.

3.4. Scrutiny of National Scheme Legislation – Proposed by Victoria

Marg Gillette, MLA (Vic) chaired a discussion on the proposal by the Victorian committee which was originally proposed at the Seventh Australasian and Pacific Conference on Delegated Legislation in July 1999. Ms Gillette presented an amended and updated version of the proposal (see Attachment 4), and this was discussed in general terms.

3.5. Scrutiny of National Scheme Legislation – Case Studies from Queensland, NSW, SA and WA

Several papers were presented by various delegates on case studies in different jurisdictions on scrutiny of national scheme legislation. The ACT delegates were not present for these papers, but they are available from the Secretary.

3.6. Native Title – Effect on Northern Territory Legislation.

Mr Steve Balch, MLA, Chair of the NT Subordinate Legislation and Publications Committee presented a paper on the Native Title Legislation.

John Hargreaves, MLA
Deputy Chair

March 2000