

**STANDING COMMITTEE ON
SCRUTINY OF BILLS AND
SUBORDINATE LEGISLATION**

REPORT NO. 16 OF 1997

11 November 1997

TERMS OF REFERENCE

- (1) A Standing Committee for scrutiny of bills and subordinate legislation be appointed.
- (2) The Committee will consider whether:
 - (a) any instruments of a legislative nature which are subject to disallowance and or disapproval by the Assembly (including a regulation, rule or by-law) made under an Act:
 - (i) meet the objectives of the Act under which it is made;
 - (ii) unduly trespass on rights previously established by law;
 - (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (iv) contain matter which should properly be dealt with in an Act of the Legislative Assembly.
 - (b) its explanatory statement meets the technical or stylistic standards expected by the Committee.
 - (c) clauses of bills introduced in the Assembly:
 - (i) do not unduly trespass on personal rights and liberties;
 - (ii) do not make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) do not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
 - (d) its explanatory memorandum meets the technical or stylistic standards expected by the Committee.
- (3) The Committee shall consist of three members.
- (4) If the Assembly is not sitting when the Committee is ready to report on Bills and subordinate legislation, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing and circulation.
- (5) The Committee be provided with the necessary additional staff, facilities and resources.
- (6) The foregoing provisions of the resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

MEMBERS OF THE COMMITTEE

Mr Bill Wood, MLA (Chair)
Mr Paul Osborne, MLA (Deputy Chair)
Mr Harold Hird, MLA

Legal Advisor: Mr Peter Bayne
Secretary: Mr Tom Duncan

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.

BILLS

Bills - No Comment

The Committee has examined the following Bills and offers no comments:

Drugs of Dependence (Amendment) Bill (No. 2) 1997

This Bill would have the effect of amending section 183A of the *Drugs of Dependence Act 1989* to the effect that the person carrying out the functions of the Government Analysis need not be an analyst under the Act.

Health Professions Boards (Procedures) (Amendment) Bill 1997

This Bill would amend the *Health Professions Boards (Procedures) Act 1981* for the purpose of removing certain age discriminatory provisions which restrict persons who have attained the age of 65 (or who will attain 65 during the term of their appointment) from serving as a member of the Health Profession Registration Board.

Health Professions Boards (Elections) (Amendment) Bill 1997

This Bill would amend the *Health Professions Boards (Elections) Act 1980* for the purpose of removing certain age discriminatory provisions which restrict persons who have attained the age of 65 from being nominated as a candidate for election as a member of the Health Professions Registration Board.

Poisons and Drugs (Amendment) Bill 1997

This Bill would amend the *Poisons and Drugs Act 1978* to adopt by reference those parts of the latest Standard for the Uniform Scheduling of Drugs and Poisons that refer to the labelling and packaging of drugs and poisons.

Prostitution (Amendment) Bill (No. 2) 1997

This Bill would amend the *Prostitution Act 1992* by creating new offences in relation, first, to the employment as a prostitute by the operator of a brothel of a person who is not a permanent resident, and, secondly, to the receipt by any person of a payment that the person knew, or ought reasonably to have known, was derived from commercial sexual services provided by another person who is not a permanent resident.

Administration (Interstate Agreements) Bill 1997

The purpose of this Bill is to impose on Ministers duties to inform and consult with other Members of the Legislative Assembly in regard to matters being negotiated with other Australian governments. It would impose a fetter on the ability of a Minister to agree to an interstate agreement except in certain circumstances (urgency and where compliance with this Act would adversely affect the interests of the Territory) and except in relation to the kinds of agreements specified in the Schedule.

Mental Health (Treatment and Care) (Amendment) Bill 1997

This Bill would amend the *Mental Health (Treatment and Care) Act 1994* to permit the Territory to make arrangements with other States and Territories for the transfer to and from the ACT of mental health patients and for their detention and treatment. In particular, this Bill mirrors the equivalent legislation of New South Wales.

**Dental Technicians and Dental Prosthetists Registration (Amendment)
Bill 1997**

This Bill would amend the *Dental Technicians and Dental Prosthetists Registration Act 1988* for the purpose of removing certain age discriminatory provisions which restrict persons who have attained the age of 65 (or who will attain 65 during the term of their appointment) from serving as a member of the Dental Technicians and Dental Prosthetists Registration Board.

Bill - Comment

The Committee has examined the following Bill and offers the following comments:

Payroll Tax (Amendment) Bill 1997

This Bill would amend the *Payroll Tax Act 1987* to the effect of including all employer funded superannuation contributions as “wages” for payroll tax purposes.

The Bill has a retrospective effect in that it validates revenue collections since 1 July 1996 which were made on the basis that the law would be amended in the manner proposed by this Bill. The Government had on 24 June 1996 announced its policy in this respect.



Bill Wood, MLA
Chair

11 November 1997

