



Legislative Assembly for the ACT

STANDING COMMITTEE ON LEGAL AFFAIRS
(performing the duties of a Scrutiny of Bills and
Subordinate Legislation Committee)

Scrutiny Report

15 June 2004

Report 50

TERMS OF REFERENCE

The Standing Committee on Legal Affairs (when performing the duties of a scrutiny of bills and subordinate legislation committee) shall:

- (a) consider whether any instrument of a legislative nature made under an Act which is subject to disallowance and or disapproval by the Assembly (including a regulation, rule or by-law):
 - (i) is in accord with the general objects of the Act under which it is made;
 - (ii) unduly trespasses on rights previously established by law;
 - (iii) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (iv) contains matter which in the opinion of the committee should properly be dealt with in an Act of the Legislative Assembly;
- (b) consider whether any explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical or stylistic standards expected by the Committee
- (c) consider whether the clauses of bills introduced into the Assembly:
 - (i) unduly trespass on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) 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) report to the Assembly on these or any related matter and 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, publication and circulation.

MEMBERS OF THE COMMITTEE

MR BILL STEFANIAK, MLA (CHAIR)
MR JOHN HARGREAVES, MLA (DEPUTY CHAIR)
MS KERRIE TUCKER, MLA

LEGAL ADVISER: MR PETER BAYNE
SECRETARY: MR MAX KIERMAIER
(SCRUTINY OF BILLS AND SUBORDINATE
LEGISLATION COMMITTEE)
ASSISTANT SECRETARY: MS ANNE SHANNON
(SCRUTINY OF BILLS AND SUBORDINATE
LEGISLATION COMMITTEE)

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:

No Comment

The Committee has examined the following Bills and offers no comment on them.

Appropriation Bill 2004-2005

This is a Bill for an Act for the appropriation of moneys for the financial year 2004-2005.

Financial Management Amendment Bill 2004 (No 2)

This Bill would amend the *Financial Management Act 1996* to make change to the to the Treasurer's Advance provisions in section 18.

Public Sector Management Amendment Bill 2004

This Bill would amend the *Public Sector Management Act 1994* to make changes to the contract employment arrangements for chief executives and executives in the ACT Public Service.

Bills - Comment

The Committee has examined the following Bills and offers these comments on them.

Crimes Legislation Amendment Bill 2004

This Bill would amend the *Crimes Act 1900* to create new offences in relation to the use or involvement of children in the production of child pornography and the giving of pornographic performance. The Bill would also amend the *Prostitution Act 1992* to ensure adequate punishment for those who cause, permit, offer or procure children for prostitution.

Has there been an undue trespass on rights and liberties? - Para 2(c)(i)

Offences of strict and absolute liability

Proposed new sections 64 and 65 of the *Crimes Act 1900*, and proposed new section 20 of the *Prostitution Act 1992*, would create offences of strict and absolute liability to which long terms of imprisonment might attach as punishment. In **Scrutiny Report No 38**, the Committee drew attention to the rights objection to such provisions.

In raising this issue here, the Committee does not suggest that these rights objections have weight in relation to these proposed offences. Clearly, the nature of the behaviour affected by the offences is such as to warrant condign punishment. To discharge its function of pointing to rights issue, the Committee will draw attention to the explanations given in the Explanatory Statement.

In relation to proposed new section 64 of the *Crimes Act 1900*, the Explanatory Statement states:

Section 64 - using child for production of child pornography etc

This section creates two offences according to the age of the child. Subsection (1) makes it an offence for a person to use, offer or procure a child under the age of 12 years to be used for the production of child pornography or for a pornographic performance. Absolute liability applies to subsection (1)(b), the age of the child. This does not render the whole offence an absolute liability offence. The effect of applying absolute liability to this element of the offence is that it is not necessary to prove that the defendant had any awareness (or any other fault element) about the age of the child involved and it is not relevant that he or she may have made a mistake about the age of the child. This is appropriate because of the age of the child and is consistent with the approach in the Chapter 5, Sexual Offences, Report of the Model Criminal Code Officers' Committee. The maximum penalty for this offence is 1500 penalty units and 15 years imprisonment or both.

Subsection (3) makes it an offence for a person to use, offer or procure a child between 12 and 18 years of age to be used for the production of child pornography or for a pornographic performance. Strict liability applies to subsection (3)(b), the age of the child. Again, this does not render the whole offence a strict liability offence. The effect of applying strict liability is that it is not necessary to prove that the defendant had any awareness (or any other fault element) about the age of the child but the defence of mistake of fact applies (section 36, *Criminal Code 2002*). Mistake of fact is open to the defendant only if the person considered whether or not facts existed and was under a mistaken but reasonable belief about the facts. Application of strict liability is also consistent with the approach in Chapter 5. The maximum penalty is 1200 penalty units and 12 years imprisonment or both.

In relation to proposed new section 65 of the *Crimes Act 1900*, the Explanatory Statement states:

This offence updates the offence of possession currently in the *Crimes Act*. Subsection (1) provides that a person commits an offence if the person intentionally possesses pornography and the pornography is child pornography. Both elements of the offence must be proven. Absolute liability applies to the second element of the offence (that is, the pornography is child pornography), however a defendant may avoid liability if he or she can prove, on the balance of probabilities, that he or she had no reasonable grounds for suspecting that the pornography was child pornography. This defence is consistent with subsection 65(3) currently in the *Crimes Act*.

In relation to new section 20 of the *Prostitution Act 1992*, the Explanatory Statement states:

Subsection (1) makes it an offence for a person to cause, permit, offer or procure a child under the age of 12 years to provide commercial sexual services. Absolute liability applies to subsection (1)(b), the age of the child. Again, this does not render the whole offence an absolute liability offence. The effect of applying absolute liability to this element of the offence is that it is not necessary to prove that the defendant had any awareness (or any other fault element) about the age of the child involved and it is not relevant that he or she may have made a mistake about the age of the child. The maximum penalty for this offence is 1500 penalty units and 15 years imprisonment or both.

Subsection (3) makes it an offence for a person to cause, permit, offer or procure a child between 12 and 18 years of age to provide commercial sexual services. Strict liability applies to subsection (3)(b), the age of the child. Again, this does not render the whole offence a strict liability offence. The effect of applying strict liability is that it is not necessary to prove that the defendant had any awareness (or any other fault element) about the age of the child but the defence of mistake of fact applies (section 36, *Criminal Code* 2002). Mistake of fact is open to the defendant only if the person considered whether or not facts existed and was under a mistaken but reasonable belief about the facts. The maximum penalty is 1200 penalty units and 12 years imprisonment or both.

Emergencies Bill 2004

This is a Bill for an Act to provide a framework for the handling of emergencies that occur within the Territory. It is based on recommendations in the *Report of the McLeod Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*. The Act would bring about the containment and management of all of the ACT emergency services, including assets and personnel, within a new authority set up outside the framework of the ACT Public Service. It would provide for different levels of special powers, and the capacity for escalation measures to be invoked to assist in the management of emergencies. The Act would establish an Emergency Services Authority, to be headed by a Chief Executive, who would report directly to the Minister. The Authority would be responsible for the overall strategic direction and management of the four services (the Fire Brigade, Ambulance Service, Rural Fire Service and the State Emergency Service). Day to day performance of functions would remain under the direct management of the Chief Officers of the services who, as members of the authority's staff, would be ultimately responsible to the Commissioner for the performance of functions. The Bill provides a new mechanism for declaring a state of alert in addition to the current provisions for declaring a state of emergency. In a state of emergency, the powers of entry, people management, evacuation, etc would apply and would be exercised by the Territory Controller, who would be appointed by the Chief Minister. In relation to bushfires, the Act would re-constitute the Bushfire Council as an advisory body, and provide for a bushfire abatement zone.

Has there been an undue trespass on rights and liberties? - Para 2(c)(i)

General comment

The Bill would authorise certain persons to exercise various emergency powers that would in very direct ways affect various freedoms (such as that of movement) and impact on the right to property; see for example, clauses 34, 67, 68, 86 and 112. The issue for the Legislative Assembly is whether there is in any respect an “undue trespass on personal rights and liberties”. This is ultimately a political judgment.

Strict liability offences

The Bill would create a number of strict liability offences. The Committee draws attention to the justification offered.

Offences incorporating strict liability elements are carefully considered when developing legislation and generally arise in a regulatory context where for reasons such as public safety or protection of the public revenue, the public interest in ensuring that regulatory schemes are observed requires the sanction of criminal penalties. As these offences are primarily aimed at conduct on the less serious side of the criminal spectrum, the maximum penalty would rarely exceed six months imprisonment. This Bill includes a number of offences where the penalty is 100 penalty units and/or imprisonment for one year and a number of strict liability offences where imprisonment is possible. These penalties have been included due to the serious consequences of non-compliance with some requirements of this legislation. For example, leaving a fire in the open air without extinguishing it during the bushfire season may cause a bushfire.

With respect to two offences (see subclauses 187(1) and 188(4), imprisonment is a possible punishment. In **Scrutiny Report No 38**, the Committee drew attention to the rights objection to such provisions.

The name and address of a person

By subclause 113(1), “[an] investigator may require a person to state the person’s name and home address if the investigator believes, on reasonable grounds, that the person may be able to assist the investigator in investigating the cause of a fire”. The exercise of this power is limited by the condition that the investigator must tell the person the reasons for the requirement; as soon as practicable, record those reasons; and produce an identity card (except where the investigator is a member of an emergency service, or a police officer, in uniform).

Similar provision is made by subclause 194(1) in respect of an “authorised person” (as to which, see clause 177).

The Committee reviewed the rights issues thrown up by such provisions in its **Report No 6 of 1999**, and commented as follows. (Some additional comments have been added.)

What personal rights and freedoms are implicated?

The common law recognised “the right of the individual to refuse to answer questions put to him by persons in authority”: *Rice v Connolly* [1966] 2 QB 414 at 419. This may be regarded as a dimension of the “right to silence”, or, more particularly, of the privilege against self-incrimination; see *Review of Commonwealth Criminal Law* (Fifth Interim Report, June 1991) at paras 8.1 and 8.8.

Today, this right might also be seen as a dimension of a right to privacy, in particular where the person questioned is not suspected of committing a crime. A right to privacy is stated in section 12 of the *Human Rights Act 2004*:

12 Privacy and reputation

Everyone has the right—

- (a) not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and
- (b) not to have his or her reputation unlawfully attacked.

When is it justifiable to impose on a person an obligation to provide their name and address?

There are statutory provisions that impose on a person an obligation to provide their name and address if a state official believes that the person might be able to assist in inquiries in relation to the commission of an offence. ...

The ALRC noted that while “[s]tatutory power to require a person to furnish his name and address exists at present in most jurisdictions only in relation to traffic offences[, it] is nonetheless, a power which policemen need, and exercise in practice”: Australian Law Reform Commission, *Criminal Investigation (Report No 2, Interim)* (1975) at para 79. The Commission thus recommended:

The power to require a person to furnish his name and address, now available only in traffic cases, should be extended to situations where the policeman has reasonable grounds for believing that the person can assist him in relation to an offence which has been, may have been, or may be committed. The police officer should be required to specify the reason for which the person’s name and address is sought, and there should be a reciprocal right, in such a situation, for a citizen to demand and receive from the policeman particulars of his own identity: ALRC at para 322.

...

It is, however, critical to note that the ALRC linked its recommendations to the means it recommended for enforcing safeguards against an excess of the powers of the police. In this respect, it instanced “disciplinary action, the exclusionary rule, and the civil action for false imprisonment”: ALRC at para 81, footnote 107, and see too at para 204, and see paras 301-302.

The first of these reasons has much less force where the person exercising the power is not a police officer. In relation to the police, there is a distinct regime for making of complaints and discipline.

Clauses 113 and 194 conform largely to the recommendations of the ALRC except that they would permit persons other than police officers to exercise the power. Given, however, the nature of this Bill and the authority and discipline structures under which these powers will be exercised, the Committee does not consider that clauses 113 and 194 are objectionable from rights perspectives.

Compensation

The Committee has noted the provision made (in clauses 167 and 197) for the award of compensation to those who may suffer loss as a result of the exercise of powers during an emergency.

There are some comments to be made about these clauses.

Clause 161 provides for the powers that the Territory Controller may exercise in a declared state of emergency. The powers include all of the powers of the Chief Officers in clause 34, and also the power to direct the movement of people and animals and taking possession of any building or vehicle. Under clause 34, the Chief Officer may exercise power where that is necessary to protect or preserve life, property or the environment. These powers include the power to enter land, remove, dismantle, demolish or destroy a structure or vehicle, disconnect any supply of fuel and use a supply of water without charge. **By clause 167**, a person who suffers loss because of an act or omission under clause 161 is entitled to be paid reasonable compensation from the Territory. That person may apply to the Minister for compensation. The application must state the particulars of the loss, the amount claimed and the basis for the amount.

The critical issue for the Minister is whether he or she “is satisfied that the [person] is entitled to compensation” (subclause 168(1)). The Committee notes that there is otherwise no statement of the relevant criteria, and, unlike the provision made in subclause 197(4) (see below), no provision for criteria to be specified in regulations. It is not apparent why there should be this difference. From a viewpoint of affording guidance to those who suffer loss, provision for criteria to be specified in regulations is desirable. The Committee further observes that a regulation would necessarily be a disallowable instrument.

It is noted that compensation under clause 167 is assessed by the Minister, whereas any compensation under 197 is assessed by a court. There is no provision for review by the Administrative Appeals Tribunal (AAT) of decisions made by the Minister, and this appears to compare unfavourably with the current scheme under sections 37-39, and 76 of the *Emergency Management Act 1999*.

On the other hand, the effect of clause 170 is that if the Territory (acting through the Minister it would appear) does not agree on “the amount of compensation” offered by the Minister, the person may seek “reasonable compensation” from a court. Review by a court is, however, a potentially much more expensive means of seeking redress than is an appeal to the AAT.

(There is also a question as to whether clause 170 applies where the Minister makes no offer at all of any amount of compensation. A beneficial reading of clause 170 suggests that it would, but the issue might be clarified.)

Clause 197 applies where a person suffers loss as a result of the exercise of powers during an emergency in cases where clause 167 does not apply. A claim for compensation is made to a court, and while the court is given a very wide discretion as to when it may order payment of compensation, by subclause 197(4) regulations may specify the matters that may or must be taken into account by the court. Again, review by a court is, however, a potentially much more expensive means of seeking redress than is an appeal to a body such as the AAT.

The Explanatory Statement does not address these various issues and the Committee draws them to the attention of the Assembly. In particular, it is not apparent why, in relation to clause 167, a person should have the facility of approaching a Minister in order to determine if agreement can be reached in relation to compensation, whereas, in relation to clause 197, a claim for compensation is made to a court. On the face of it, clause 167 is more beneficial in that a person has a means of redress which will be much less expensive than resort to court. Of course, a Minister may reject a claim, but it might be expected that in the great majority of cases the matter would be settled between the Minister and the claimant. On the other hand, even in relation to clause 197, the claimant would seek to settle with the Territory prior to launching court action.

In the end, however, on its face the legislation provides two different means for assessing compensation and it is not clear why this should be so.

Determination of fees

The Committee notes the unusual provision in subclause 199(2) that:

- (2) A fee determined for a service provided to a person by an emergency service is payable by the person even if the person did not ask for, or consent to, the provision of the service.

The Explanatory Statement does not address the issue of why this is necessary, but the Committee can appreciate that it may be necessary in relation to the handling of emergencies.

Powers to detain persons

The Committee notes that under clause 166, a person might be detained in order to facilitate her or his removal from a place. Such a detention may, however, be effected only for the purpose of such removal. So limited, the detention is probably not to be regarded as an “arbitrary ... detention” under Article 9.1 of the ICCPR, and, even if so regarded, may be, in terms of Article 4, a justifiable derogation from Article 9.1. See too subsection 18(1) of the *Human Rights Act 2004*, which provides:

18(1) Everyone has the right to liberty and security of person. In particular, no-one may be arbitrarily arrested or detained.

Gaming Machine Bill 2004

This is a Bill for an Act to regulate and control all aspects of gaming machine operations in the ACT. Under the Act, the ACT Gambling and Racing Commission will remain responsible for licensing and regulating gaming machine operations in the ACT. The Act would replace the existing legislation.

Has there been an undue trespass on rights and liberties? - Para 2(c)(i)

Strict liability offences

The Bill would create a number of strict liability offences. The Committee draws attention to the justification offered.

In this proposed legislation the penalties generally correspond to those in the superseded gaming machine legislation. Most offences are now offences of strict liability in accordance with current legal policy for regulatory offences with small or moderate penalties. This means that conduct alone is sufficient to make the defendant culpable.

Equality under the law

By subsection 8(3) of the *Human Rights Act 2004*:

Everyone is equal before the law and is entitled to the equal protection of the law without discrimination.

Then, by section 28:

Human rights may be subject only to reasonable limits set by Territory laws that can be demonstrably justified in a free and democratic society.

In this light, clause 170 raises a problem. It provides:

- (1) For every \$3 of women's sport community contributions that a licensee contributes to an entity under section 163 (1), the licensee's required community contributions must be worked out as if the licensee had contributed \$4.

The Committee considered a similar provision in its **Report No 8 of the Fifth Legislative Assembly**. It noted there that "there does appear to be a conflict between the terms of the proposed law, which explicitly fix on sex as a category for the operation of the law, and the principle that all are entitled to the equal protection of the law". It went on to examine that issue, pointing to relevant international treaties and noting the affirmative action qualification to the principle of equality of treatment. That debate may now be seen as a matter of resolving the tension between sections 8 and section 28 the *Human Rights Act 2004*. The debate will not be canvassed again here.

Has there been an insufficient definition of administrative power? - Para 2(c)(ii)

Under the Bill, the Commission would be vested with a number of discretionary powers, some expressed in very wide language; see, for example, the powers stated in clauses 13, 20 and 21.

The Committee considers that consideration should be given to including in the Bill a power to issue guidelines as how all discretionary powers might be exercised. Perhaps the Commission might be empowered to issue guidelines as to how it will exercise any of its powers under the Act. It could do this apart from express statutory power, but were a power to be express, a person dealing with the Commission would be on notice that guidelines might exist.

Alternatively, or in addition, the Executive might be empowered to make regulations providing guidelines. The Committee notes that under subclause 163(2), in relation to the approval by the Commission of community contributions:

- (2) The regulations may make provision in relation to contributions, including—
 - (a) guidelines for approving contributions as community contributions; and
 - (b) how contributions may be claimed.

Example

A capital payment may be claimed proportionately over a number of years.

Such provisions are beneficial.

Has an exercise of delegated legislative power been made sufficiently subject to parliamentary scrutiny? - Para 2(c)(v)

The Committee notes the strong provision made for parliamentary scrutiny in relation to determinations by the Commission (under subclause 151(1)) of the contents of warning notices. Such a determination is disallowable, and then by subclause 151(6) it is provided:

- (6) Unless the determination is disallowed by the Legislative Assembly, the determination commences—
 - (a) 2 weeks after the last day when it could have been disallowed; or
 - (b) if the determination provides for a later commencement—on that later commencement.

Has there been an inappropriate delegation of legislative powers? - Para 2(c)(iv)

The Minister and the power to fix the rate of a tax

The Committee notes that by clause 159 of the Bill:

159 Gaming machine tax

- (1) Gaming machine tax is payable on the gross revenue in relation to the operation of gaming machines each month, whether or not the operation is lawful.
- (2) The Minister may, in writing, determine the rate at which gaming machine tax is payable.
- (3) A determination under subsection (2) is a disallowable instrument.

The empowerment of the Minister to fix the rate of tax raises an issue that has been addressed in past Reports. In **Scrutiny Report No 14 of 1999** (and in Report No 5 of 2000), the Committee noted that many scrutiny committees operate according to the principle that “[i]t is for Parliament to set a tax rate and not for the makers of subordinate legislation to do so”: Senate Standing Committee for Scrutiny of Bills, *The Work of the Committee during the 37th Parliament May 1993 – March 1996*, (June 1997), at 62. This Committee said: “[t]he vice to be avoided is taxation by non-primary legislation”. This approach reflects the long-standing constitutional position that “the raising and expenditure of public revenue have long been under the control of Parliament”: *Northern Suburbs General Cemetery Reserve Trust v Commonwealth* (1993) 176 CLR 555 at 579 per Brennan J.

In its report, *The Work of the Committee during the 39th Parliament November 1998 – October 2001*, (June 2002), at 82 (para 5.31) the Senate Committee has accepted that

[w]here the rate of a levy needs to be changed frequently and expeditiously, this may be better done through amending regulations than by enabling statute. If a compelling case can be made for the rate to be set by subordinate legislation, the Committee seeks to impose some limit on the exercise of this power. For example, the Committee will seek to have the enabling Act prescribe either a maximum figure above which the relevant regulations cannot fix the levy, or, alternatively, a formula by which such an amount can be calculated.

The Standing Committee on Legal Affairs of this Assembly, acting in its scrutiny role, accepts this general approach as appropriate. In that light, it notes

- (i) that the Explanatory Statement states only that “The approach to allow the Minister to determine the rate of tax is consistent with other gaming laws and allows scrutiny and disallowance by the Legislative Assembly”. This does not indicate why it is not desirable that the Assembly fix the rate; and
- (ii) the Bill does not prescribe either a maximum figure above which the Minister cannot determine a rate, or, alternatively, a formula by which the rate can be calculated. It also makes no provision for the kinds of matters that the Minister may or must take into account in fixing the rate of tax.

The Committee draws this matter to the attention of the Assembly.

A similar issue arises in respect of the Minister’s power to fix a lower rate of community contributions (which are in the nature of taxes) under subclause 168(3). In this instance, the Minister’s discretion is confined closely.

Justice and Community Safety Legislation Amendment Bill 2004

This is a Bill for an Act to amend a number of laws administered by the ACT Department of Justice and Community Safety.

Have rights, liberties and/or obligations been made unduly dependent upon non-reviewable decisions? - Para 2(c)(iii)

The Committee has concerns about an amendment proposed to the *Ombudsman Act 1989*. The primary function of the Ombudsman is to “investigate action that relates to a matter of administration” (paragraph 5(1)(a) of the *Ombudsman Act 1989*). This is action taken over the whole sweep of the administrative arms of the government of the Territory.

The facility to make a complaint to the Ombudsman is a very cheap and efficacious means for the ordinary citizen to seek review of some administrative action. The Ombudsman may only make a recommendation to the relevant administrator to take action to give redress to a complainant, but it is rare for this recommendation to be rejected.

The low cost (to the complainant) of resort to the Ombudsman is a particularly attractive aspect of this means for review. The complainant does not pay any filing fees and does not run the risk of paying any costs to the Territory should the Ombudsman not find the complaint to be justified. On the other hand, those who resort to the courts must pay filing fees, and often must pay costs to the Territory if their challenge is unsuccessful. The mere risk of paying costs is often enough to dissuade a person from going to court. Even where the complainant is successful, the costs recovered often do not meet the true costs incurred. Compounding the costs problem, the courts may often be unable to review any more than the strict legality of the administrative action. The courts cannot remake the decision.

Resort to a tribunal is apparently less expensive and more efficacious means (than resort to a court) for the ordinary citizen to seek review of administrative action. But this depends on the tribunal, for some filing fees are now quite high. Moreover, the legalistic manner of tribunal operations means that the citizen often feels it necessary to engage a lawyer. The need to do so is often enough to dissuade a person from going to the tribunal. Should the citizen succeed before the tribunal, the tribunal does not have power to award costs to her or him unless specifically given this power by statute. Often, the relevant statute does not give the tribunal this power.

All this is said to underline just how significant is the facility for a citizen to make a complaint to the Ombudsman. Any reduction of the scope of the jurisdiction of that office needs to be carefully considered by the Assembly.

Subsection 5(2) of the *Ombudsman Act 1989* then states a long list of matters that the Ombudsman "is not authorised to investigate". The amendment to the Act proposed by this Bill would add another category of administrative action to this list; that is:

- (ca) action taken by a tribunal, a member of a tribunal, or a member of the staff of a tribunal, in the exercise of the tribunal's deliberative functions;

The Explanatory Statement states:

This amendment will restrict the Ombudsman from investigating actions taken by a quasi-judicial body when performing a deliberative function. The power for the Ombudsman to investigate these actions has been deemed unnecessary, as there are already adequate protection measures for individuals in place.

The Committee considers that a number of important matters are not explained such as to put the Assembly in a position to know just what will be the effect of this restriction.

Why it is deemed unnecessary for the jurisdiction of the Ombudsman to be excluded?

The Ombudsman already has a power to decline to investigate if the complainant has an alternative remedy, and it is not apparent why there is a need for a somewhat open-ended exclusion (see below).

Regard needs also to be had to the fact that tribunals are essentially part of the administrative arm of government. They are not part of the court system. They may or may not be staffed by experienced and high level staff. Why is it thought that what they do should be less subject to the broad jurisdiction of the Ombudsman than other parts of the administrative arm of government?

What is a tribunal for the purposes of this restriction?

Will it be enough that a body is so described in a statute? If so, this will open up a means for areas of administrative action to be readily excluded from the jurisdiction of the Ombudsman. On the other hand, will a body be a “tribunal” even though not described as such? The reference in the Explanatory Statement to a “quasi-judicial body” – a term not found in the amending provision – suggests that some qualitative assessment of what the body does is required.

This uncertainty about the scope of the amending provision will work in favour of bodies that seek to avoid Ombudsman review. If this provision is to be inserted in the Act, it would be preferable to refer to a prescribed tribunal (as is done in some other sections of the Act). The prescription would then need to be done by a regulation. In this way, certainty would be produced, and the Assembly would have the opportunity to disallow the regulation.

What is meant by the exercise of the tribunal’s deliberative functions?

This term could be understood very broadly – such as that it refers to the decision-making functions of the tribunal. This could refer to much more than the function of the tribunal in dealing with the merits of some complaint made to the tribunal about some administrative action. It could encompass the way the complainant was dealt with by tribunal staff.

The Committee draws these matters to the attention of the Assembly.

SUBORDINATE LEGISLATION

There is no matter for comment in this report.

INTERSTATE AGREEMENTS

There is no matter for comment in this report.

REGULATORY IMPACT STATEMENTS

There is no matter for comment in this report.

GOVERNMENT RESPONSES

The Committee has received responses from:

- The Minister for Education, Youth and Family Services, dated 9 March 2004, in relation to comments made in Scrutiny Report 44 regarding the Education Bill 2003.
- The Treasurer, dated 27 May 2004, in relation to comments made in Scrutiny Report 48 regarding Disallowable Instruments DI2004-62 being the Taxation Administration (Amounts payable – Home Buyer Concession Scheme) Determination 2004 (No 1) and DI2004-64 being the Taxation Administration (Objection Fees) Determination 2004 (No 1).
- The Treasurer, dated 27 May 2004, in relation to comments made in Scrutiny Report 48 regarding Disallowable Instrument DI2004-50 being the Hotel School Appointment 2004 (No 3).

The Committee thanks the Treasurer and the Minister for Education, Youth and Family Services for their helpful responses.

Bill Stefaniak MLA
Chair

June 2004

**LEGAL AFFAIRS – STANDING COMMITTEE
(PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND
SUBORDINATE LEGISLATION COMMITTEE)**

RESPONSES

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<u>REPORTS – 2001-2004</u>	
<u>Report No. 1, dated 12 December 2001</u>	
Nil	
<u>Report No. 2, dated 19 February 2002</u>	
Crimes Amendment Bill 2001 (No. 2) (PMB)	
<i>Act citation: Crimes Amendment Act 2002 (Passed 5.3.02)</i>	No. 5
Crimes (Abolition of Offence of Abortion) Bill 2001 (PMB).....	
Health Regulation (Maternal Health Information) Repeal Bill 2001 (PMB).....	
Land (Planning and Environment) Legislation Amendment Bill 2001 (PMB).....	
Supreme Court Amendment Bill 2001 (No. 2) (PMB).....	
Subordinate Law No 40 – Building Regulations Amendment.....	No. 8
Subordinate Law No 41 – Building and Construction Industry Training Levy Regulations 2001.....	
Subordinate Law No 42 – Crimes Regulations 2001.....	
Subordinate Law No 43 – Dangerous Goods Regulations Amendment	
Subordinate Law No 44 – Road Transport (Driver Licensing) Regulations Amendment.....	No. 8
Subordinate Law No 45 – Road Transport (Public Passenger Services Regulations 2002.....	No. 8
Subordinate Law No 46 – Road Transport Amendment Regulations 2001.....	
Subordinate Law No 47 – Maternal Health Information Regulations Repeal 2001.....	No. 10
Health Professions Board (Procedures) Act – Determination No 221 of 2001.....	No. 10

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<u>Report No. 6, dated 7 March 2002</u>	
Nil	
<u>Report No. 7, dated 27 March 2002</u>	
Drugs of Dependence Amendment Bill 2002 (Passed 14.5.02).....	No. 10
Duties Amendment Bill 2002 (Passed 11.4.02).....	No. 8
Fair Trading Amendment Bill 2002 (PMB) (Passed 29.08.02).....	
Subordinate Law 2002 No 1 – Radiation Regulations 2002.....	No. 10
<u>Report No. 8, dated 1 May 2002</u>	
Discrimination Amendment Bill 2002 (PMB) (Passed 5.6.02).....	
Gaming Machine (Women’s Sports) Amendment Bill 2002	
(Passed 4.6.02).....	No. 10
Subordinate Law No. 3 – Road Transport (Public Passenger	
Services) Regulations 2002.....	No. 15
Subordinate Law No. 4 – Community Title Regulations 2002.....	No. 15
Road Transport (Public Passenger Services) Regulations 2002 –	
Disallowable Instruments Nos 12 and 18.....	No. 15
Road Transport (General) Act – Disallowable Instrument No. 20.....	No. 15
Public Place Names Act – Disallowable Instrument No. 24.....	No. 15 (No. 32)
<u>Report No. 9, dated 7 May 2002</u>	
Nil	
<u>Report No. 10, dated 14 May 2002</u>	
Building Amendment Bill 2002 (Passed 16.5.02).....	No. 16
<u>Report No. 11, dated 14 May 2002</u>	
Nil	
<u>Report No. 12, dated 16 May 2002</u>	
Justices of the Peace Act – Disallowable Instrument No. 25.....	
Residential Tenancies Act – Disallowable Instrument No. 26.....	

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<u>Report No. 13, dated 29 May 2002</u>	
Cemeteries and Crematoria Bill 2002.....	No. 15
Duties (Insurance Exemptions) Amendment Bill 2002.....	No. 15
Road Transport Legislation Amendment Bill 2002.....	No. 16
<u>Report No. 14, dated 4 June 2002</u>	
Statute Law Amendment Bill 2002 (Passed 29.08.02).....	No. 15
<u>Report No. 15, dated 20 June 2002</u>	
Workers Compensation (Acts of Terrorism) Amendment Bill 2002....	No. 17
Remuneration Tribunal Act – Disallowable Instrument No. 34.....	No. 23
Hotel School Act – Disallowable Instrument No. 35.....	No. 18
Road Transport Act – Disallowable Instrument No. 39.....	No. 17
Commissioner for the Environment Act No. 38.....	No. 17
<u>Report No. 16, dated 25 June 2002</u>	
Maternal Health Legislation Amendment Bill 2002 (PMB).....	
Medical Practitioners (Maternal Health) Amendment Bill 2002	
(Passed 21.08.02) (PMB).....	
Health and Community Care Services Act –	
Disallowable Instrument No. 41.....	No. 19
Public Place Names Act –	
Disallowable Instrument No. 43.....	No. 17
Disallowable Instrument No. 44.....	No. 17
Building Act – Disallowable Instrument No. 50.....	No. 17
<u>Report No. 17, dated 9 August 2002</u>	
Justice and Community Safety Legislation Amendment Bill 2002	
(Passed 22.08.02).....	
Magistrates Court (Refund of Fees) Amendment Bill 2002 (Passed	
25.09.02).....	
Planning and Land Bill 2002 (Passed 12.12.02).....	No. 20
Plant Diseases Bill 2002 (Passed 12.11.02).....	No. 18
Revenue Legislation Amendment Bill 2002 (Passed 22.08.02)	No. 18

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Subordinate Law 2002 No. 11 – Custodial Escorts Regulations 2002...	
Land (Planning and Environment) ACT Heritage	
Council Appointments 2002 (No 1) - DI 2002—56.....	No. 20
Roads and Public Places (Fees) Revocation and Determination	
2002 (No 1) - DI 2002—71.....	No. 19
Roads and Public Places (Fees) Revocation and Determination	
2002 (No 2) - DI 2002—72.....	No. 19
Roads Transport (General) (Fees) Revocation and Determination	
2002 – DI2002—73.....	No. 19
Hawker (Fees) Revocation and Determination 2002 – DI2002—74....	No. 19
Roads and Public Places (Fees) Revocation and Determination 2002	
(No 3) – DI2002-75.....	No. 19
Water Resources (Fees) Revocation and Determination 2002 –	
DI2002-76.....	No. 19
Stock (Fees) Revocation and Determination 2002 (No 1) – DI2002-77	No. 19
Stock (Fees) Revocation and Determination 2002 (No 2) – DI2002-78	No. 19
Pounds (Fees) Revocation and Determination 2002 – DI2002-79.....	No. 19
Nature Conservation (Fees) Revocation and Determination 2002 –	
DI2002-80.....	No. 19
Lakes (Fees) Revocation and Determination 2002 – DI2002-81.....	No. 19
Environment Protection (Fees) Revocation and Determination 2002 –	
DI2002-82.....	No. 19
Domestic Animals (Fees) Revocation and Determination 2002 –	
DI2002-83.....	No. 19
Animal Welfare (Fees) Revocation and Determination 2002 –	
DI2002-84.....	No. 19
Animal Diseases (Fees) Revocation and Determination 2002 –	
DI2002-85.....	No. 19
Road Transport (General) (Parking Permit Fees) Revocation and	
Determination 2002 – DI2002-86.....	No. 19
Road Transport (General) (Vehicle Impounding and Seizure/Speed	
Tests) Revocation and Determination 2002 – DI2002-89.....	No. 19
<u>Report No. 18, dated 27August 2002</u>	
Cooperatives Bill 2002...(Passed 19.11.02).....	No 22
<u>Report No. 19, dated 20 September 2002</u>	
Adventure Activities (Liability) Bill 2002 (PMB)	
Civil Law (Wrongs) Bill 2002 (Passed 26.09.02)	No. 20

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Injuries Compensation Framework Bill 2002 (PMB)	
Prostitution Amendment Bill 2002 (Passed 24.09.02)	
Disallowable Instrument DI 2002—99 being the Machinery (Fees) Revocation and Determination 2002	
Disallowable Instrument DI 2002—102 being the Architects (Fees) Revocation and Determination 2002	No. 22
Disallowable Instrument DI 2002—103 being the Building (Fees) Revocation 2002	No. 22
Disallowable Instrument DI 2002—104 being the Building (Fees) Determination 2002	No. 22
Disallowable Instrument DI 2002—105 being the Community Title (Fees) Determination and Revocation 2002	No. 22
Disallowable Instrument DI 2002—106 being the Construction Practitioners Registration (Fees) Determination and Revocation 2002	No. 22
Disallowable Instrument DI 2002—109 being the Water and Sewerage (Fees) Revocation 2002	No. 22
Disallowable Instrument DI 2002—110 being the Water and Sewerage (Fees) Determination 2002	No. 22
Disallowable Instrument DI 2002—111 being the Land (Planning and Environment) (Fees) Revocation 2002	No. 22
Disallowable Instrument DI 2002—112 being the Land (Planning and Environment) (Fees) Determination 2002	No. 22
Disallowable Instrument DI 2002—113 being the Surveyors (Fees) Revocation 2002	No. 22
Disallowable Instrument DI 2002—114 being the Surveyors (Fees) Determination 2002	No. 22
Disallowable Instrument DI 2002—115 being the Unit Titles (Fees) Revocation 2002	No. 22
Disallowable Instrument DI 2002—116 being the Unit Titles (Fees) Determination 2002	No. 22
Disallowable Instrument DI 2002—120 being the Plumbers, Drainers and Gasfitters Board (Fees) Revocation and Determination 2002	
Disallowable Instrument DI 2002—128 being the Scaffolding and Lifts (Fees) Revocation and Determination 2002	
Disallowable Instrument DI 2002—129 being the Occupational Health and Safety (Fees) Revocation and Determination 2002	
Disallowable Instrument DI 2002—130 being the Workers’ Compensation (Fees) Revocation and Determination 2002	

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Disallowable Instrument DI2002-224 being the Occupational Health and Safety Council – Appointment 2002 (No 2) Disallowable Instrument DI2002-225 being the Occupational Health and Safety Council – Appointment 2002 (No 2) Disallowable Instrument DI2002-232 being the Road Transport (General) Revocation of Declaration for Traffic Marshals 2002.... Disallowable Instrument DI2003-3 being the Hotel School Appointment 2003 (No 1) Disallowable Instrument DI2003-5 being the Tree Protection (Interim Scheme) Determination of Criteria 2002	 No 30 No 30 No 32 No 30 No 32
<u>Report No 27, dated 11 March 2003</u>	
Bushfire Inquiry (Protection of Statements) Bill 2003 (PMB) (Passed 12.03.03) Bushfire Reconstruction Authority Bill 2003 (PMB) Charitable Collections Bill 2002 (Passed 1.04.03) Disallowable Instrument DI2003-21 being the Plumbers, Drainers and Gasfitters Board Appointments 2003 (No 1) Disallowable Instrument DI2003-23 being the Occupational Health and Safety (Fees) Revocation and Determination 2003	 No 31 No 32
<u>Report No 30, dated 31 March 2003</u>	
Agents Bill 2003 (Passed 6.05.03) Legislation (Statutory Interpretation) Amendment Bill 2003 (Passed 3.04.03)	
<u>Report No 31, dated 11 April 2003</u>	
Animal and Plant Diseases Amendment Bill 2003 (Passed 25.09.03). Road Transport (Public Passenger Services) Amendment Bill 2003 Sentencing Reform Amendment Bill 2003 (PMB) Tertiary Accreditation and Registration Bill 2003 (Passed 21.08.03) . Vocational Education and Training Bill 2003 (Passed 21.08.03) Disallowable Instrument DI2003-26 being the Public Trustee – Appointments to the Public Trustee Investment Board 2003 (No 1) Disallowable Instrument DI2003-27 being the Utilities (Dam Safety Code) Variation Determination 2003	 No 32 No. 37 No 32

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<u>Report No 32, dated 15 May 2003</u>	
Bushfire Reconstruction Levy Bill 2003	No 34
Long Service Leave (Private Sector) Bill 2003 (PMB).....	
Nurses Amendment Bill 2003.....	No 34
<u>Report No 33, dated 5 June 2003</u>	
Electoral Amendment Bill 2003 (Passed 14.5.04) (<i>Act citation:</i> Electoral Amendment Act 2004)	
Gaming Machine (Political Donations) Amendment Bill 2003	
<u>Report No 34, dated 24 June 2003</u>	
Bushfire Inquiry (Protection of Statements) Amendment Bill 2003 (No 2)	
Firearms (Prohibited Pistols) Amendment Bill 2003	
Disallowable Instrument DI2003-52 being the Tree Protection (Interim Scheme) Instrument of Appointment 2003.....	
Disallowable Instrument DI2003-57 being the Scaffolding and Lifts (Fees) (Bushfire Emergency) Determination 2003.....	No 39
Disallowable Instrument DI2003-58 being the Dangerous Goods (Fees) (Bushfire Emergency) Determination 2003.....	No 39
Disallowable Instrument DI2003-59 being the Territory Records Advisory Council Appointments 2003 (No 1).....	No 35
Disallowable Instrument DI2003-60 being the Stadiums Authority Board Appointments 2003 (No 1).....	
Disallowable Instrument DI2003-61 being the Stadiums Authority Board Appointments 2003 (No 2)	
Disallowable Instrument DI2003-62 being the Stadiums Authority Board Appointments 2003 (No 3)	
Disallowable Instrument DI2003-65 being the Victims of Crime – Appointment of Victims of Crime Coordinator 2003.....	No 36
Disallowable Instrument DI2003-74 being the Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2003 (No 1)	No 35
Disallowable Instrument DI2003-81 being the Victims of Crime Appointment to Victims Assistance Board 2003 (No 1)	No. 36
Disallowable Instrument DI2003-84 being the Land (Planning and Environment) ACT Heritage Council Appointments 2003 (No 1).	No 35

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Disallowable Instrument DI2003-112 being the Cultural Facilities Corporation Act 1997 Appointment to Cultural Facilities Corporation Board 2003 (No 1)	No 35
<u>Report No 35, dated 22 July 2003</u>	
Bail (Serious Offences) Amendment Bill 2003	
Civil Law (Sale of Residential Property) Bill 2003 (Passed 28.08.03).	No 38
Civil Law (Wrongs) Amendment Bill 2003 (Passed 21.08.03)	
Smoking (Prohibition in Enclosed Public Places) Bill 2003 (Passed 19.11.03)	
Disallowable Instrument DI2003-122 being the Planning and Land Council Appointments 2003 (No 1)	
Disallowable Instrument DI2003-123 being the Planning and Land Council Appointments 2003 (No 2).....	
Disallowable Instrument DI2003-124 being the Planning and Land Council Appointments 2003 (No 3).....	
Disallowable Instrument DI2003-125 being the Planning and Land Council Appointments 2003 (No 4).....	
Disallowable Instrument DI2003-126 being the Planning and Land Council Appointments 2003 (No 5).....	
Disallowable Instrument DI2003-127 being the Planning and Land Council Appointments 2003 (No 6).....	
Disallowable Instrument DI2003-128 being the Planning and Land Council Appointments 2003 (No 7).....	
Disallowable Instrument DI2003-129 being the Land Agency Board Appointments 2003 (No 1)	
Disallowable Instrument DI2003-130 being the Land Agency Board Appointments 2003 (No 2)	
Disallowable Instrument DI2003-131 being the Land Agency Board Appointments 2003 (No 3)	
Disallowable Instrument DI2003-132 being the Land Agency Board Appointments 2003 (No 4)	
Disallowable Instrument DI2003-133 being the Land Agency Board Appointments 2003 (No 5)	
Disallowable Instrument DI2003-135 being the Planning and Land Council Appointments 2003 (No 8).....	No 37
Disallowable Instrument DI2003-136 being the Planning and Land Council Appointments 2003 (No 9).....	No. 37
Disallowable Instrument DI2003-137 being the Planning and Land	

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<p>Council Appointments 2003 (No 10).....</p> <p>Disallowable Instrument DI2003-138 being the Planning and Land Council Appointments 2003 (No 11).....</p> <p>Disallowable Instrument DI2003-139 being the Planning and Land Council Appointments 2003 (No 12).....</p> <p>Disallowable Instrument DI2003-140 being the Planning and Land Council Appointments 2003 (No 13).....</p> <p>Disallowable Instrument DI2003-141 being the Planning and Land Council Appointments 2003 (No 14).....</p> <p>Disallowable Instrument DI2003-142 being the Land Agency Board Appointments 2003 (No 6)</p> <p>Disallowable Instrument DI2003-143 being the Land Agency Board Appointments 2003 (No 7)</p> <p>Disallowable Instrument DI2003-144 being the Land Agency Board Appointments 2003 (No 8)</p> <p>Disallowable Instrument DI2003-145 being the Land Agency Board Appointments 2003 (No 9)</p> <p>Disallowable Instrument DI2003-146 being the Land Agency Board Appointments 2003 (No 10)</p>	<p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p> <p>No. 37</p>
<u>Report No 36, dated August 2003</u>	
Evidence (Miscellaneous Provisions) Amendment Bill 2003 (Passed 23.10.03)	No 38
<u>Report No 37, dated 2 September 2003</u>	
<p>Dangerous Goods Legislation Amendment Bill 2003</p> <p>Inquiries Amendment Bill 2003.....</p> <p>Royal Commissions Amendment Bill 2003 (Passed 25.11.03)</p> <p>Victims of Crime (Financial Assistance) Amendment Bill 2003</p>	No 38
<u>Report No 38, dated 14 October 2003</u>	
<p>Crimes Amendment Bill 2003</p> <p>Workers Compensation Amendment Bill 2003 (No 2) (Passed 18.11.03)</p> <p>Disallowable instrument DI2003-94 being the Psychologists – Determination of Fees 2003 (No 1).</p> <p>Disallowable instrument DI2003-147 being the Utilities (Consumer Protection Code) 2003 (No 1).</p>	<p>No 39</p> <p>No 43</p> <p>No 39</p>

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Disallowable instrument DI2003-148 being the Road Transport (General) Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No 5).	No 41
Disallowable instrument DI2003-156 being the Unit titles (Fees) Determination 2003.	No 42
Disallowable instrument DI2003-157 being the Surveyors (Fees) Determination 2003.	No 42
Disallowable instrument DI2003-163 being the Architects (Fees) Revocation and Determination 2003.	No 42
Disallowable instrument DI2003-168 being the Stadiums Authority Board - Appointment 2003 (No 4).	No 39
Disallowable instrument DI2003-179 being the Adoption (Fees) Determination 2003.	No 46
Disallowable instrument DI2003-181 being the Vocational Education and Training (Fees) Determination 2003.	No 46
Disallowable Instrument DI2003-183 being the Arrangements for the Employment of Staff and the Engagement of Consultants and Contractors by Members 2003	No 39
Disallowable instrument DI2003-187 being the Health Professions Boards (Procedures) – Medical Board Appointments 2003 (No 1).	No 43
Disallowable instrument DI2003-190 being the Building and Construction Industry Training Fund Board Appointments 2003.	No 46
Disallowable instrument DI2003-191 being the National Exhibition Centre Trust Appointment 2003 (No 1).	No 39
Disallowable instrument DI2003-242 being the Justices of the Peace – Appointment of Justices of the Peace 2003 (No 1).	No 42
Disallowable instrument DI2003-244 being the Domestic Violence Prevention Council Appointments 2003-2004.	No 43
Disallowable instrument DI2003-252 being the Land (Planning and Environment) Exemption 2003.	No 42
Disallowable instrument DI2003-254 being the Land (Planning and Environment) Determination of Matters to be taken into Consideration – Grant of a Further Rural Lease (No 2) – 2003.	No 42
Disallowable Instrument DI2003-261 being the Firearms (Fees) Determination 2003 (No 1).	No 43
Disallowable Instrument DI2003-262 being the Hotel School Appointment 2003 (No. 3).	No 39
Disallowable Instrument DI2003-263 being the Hotel School Appointment 2003 (No. 4).	No 39

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
Disallowable Instrument DI2003-264 being the Hotel School Appointment 2003 (No. 5).....	No 39
<u>Report No 39, dated 12 November 2003</u>	
Australian Crime Commission (ACT) Bill 2003	No 41
Littering (Littering from Motor Vehicles) Amendment Bill 2003	
Subordinate Law SL2003-31 being the Cemeteries and Crematoria Regulations 2003.	
Disallowable Instrument DI2003-268 being the Cemeteries and Crematoria Code of Practice in the ACT 2003 (No. 1)	No 41
Disallowable Instrument DI2003-269 being the Liquor Licensing Standards Manual 2003 (No 1)	
Disallowable Instrument DI2003-270 being the Road Transport Public Passenger Services) Exemption 2003	
<u>Report No 40, dated 25 November 2003</u>	
Electoral Amendment Bill 2003 (No 2) (Passed 27.11.03).....	
<u>Report No 41, dated 9 December 2003</u>	
First Home Owner Grant Amendment Bill 2003 (Passed 9.12.03) ..	
Parentage Bill 2003 (Passed 10.2.04).....	No 46
Revenue Legislation Amendment Bill 2003 (No 3) <i>Act Citation:</i>	
Revenue Legislation Amendment 2003 (No 2) (Passed 9.12.03)	
Validation of Fees (Cemeteries) Bill 2003 (Passed 9.12.03)	
Sexuality Discrimination Legislation Amendment Bill 2003 (Passed 10.2.04)	No 46
Disallowable Instrument DI2003-278 being the Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation (No 2) 2003	
Disallowable Instrument DI2003-280 being the Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation 2003 (No 3)	
Disallowable Instrument DI2003-282 being the Road Transport (General) Exemption of Person & Vehicle from Road Transport Legislation 2003 (No 4)	
Subordinate Law SL2003-34 being the Road Transport (Driver	

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<p>Justice and Community Safety Legislation Amendment Bill 2003 (No 2) – <i>Act citation:</i> Justice and Community Safety Legislation Amendment Bill 2004 (Passed 30.3.04).....</p> <p>Disallowable Instrument DI2004-1 being the Government Procurement Appointment 2004 (No 1)</p> <p>Disallowable Instrument DI2003-322 being the Cemeteries and Crematoria (Appointments) 2003 (No 1).....</p> <p>Disallowable Instrument DI2003-326 being the National Exhibition Centre Trust Appointment 2003 (No 2).....</p> <p>Disallowable Instrument DI2003-332 being the Independent Competition and Regulatory Commission (Water Abstraction Charge) Declaration 2003 (No 1)</p> <p>Disallowable Instrument DI2003-333 being the Utilities (Water Abstraction Charge) Ministerial Direction 2003 (No 1).....</p> <p>Disallowable Instrument DI2004-6 being the Podiatrists (Fees) Determination 2004 (No 1)</p> <p>Disallowable Instrument DI2004-8 being the Poisons (Fees) Determination 2004 (No 1)</p>	<p>No 47</p> <p>No 46</p> <p>No 49</p> <p>No 46</p> <p>No 46</p> <p>No 46</p> <p>No 46</p>
<u>Report No 45, dated 9 March 2004</u>	
<p>Civil Law (Wrongs) (Thresholds) Amendment Bill 2003</p> <p>Construction Occupations (Licensing) Bill 2003 (Further comment) (Passed 11.03.04)</p> <p>Crimes Amendment Bill 2004 (No 2) (Passed 11.03.04)</p> <p>Discrimination (Genetic Status) Amendment Bill 2003</p> <p>Nurse Practitioners Legislation Amendment Bill 2003</p> <p>Occupational Health and Safety Amendment Bill 2003</p> <p>Disallowable Instrument DI2004-17 being the Cultural Facilities Corporation Appointment 2004 (No 1).....</p> <p>Disallowable Instrument DI2004-18 being the Cultural Facilities Corporation Appointment 2004 (No 2).....</p> <p>Disallowable Instrument DI2004-22 being the Smoke-free Areas (Enclosed Public Places) (Fees) Determination 2004 (No 1)</p>	<p>No 47</p> <p>No 48</p> <p>No 47</p> <p>No 48</p>

Bills/Subordinate Legislation	Responses received – Scrutiny Report No.
<u>Report No 46, dated 24 March 2004</u>	
Architects Bill 2004 (Passed 1.4.04).....	No 47
Litter Bill 2003.....	No 47
Disallowable Instrument DI2004-27 being the Public Sector Management Amendment Standard 2004 (No 1)	No 47
<u>Report No 47, dated 3 May 2004</u>	
Health Professionals Bill 2003.....	
Environment Legislation Amendment Bill 2004 (Passed 13.5.04)....	
Gene Technology (GM Crop Moratorium) Bill 2004.....	
Disallowable Instrument DI2004-35 being the Hotel School Appointment 2004 (No 1).....	No 49
Disallowable Instrument DI2004-36 being the Hotel School Appointment 2004 (No 2).....	No 49
<u>Report No 48, dated 12 May 2004</u>	
Subordinate Law SL2004-12 being the Land (Planning and Environment) Amendment Regulations 2004 (No 1).....	No 49
Disallowable Instrument DI2004-42 being the Rehabilitation of Offenders (Interim) (Sentence Administration Board Acting Chairperson) Appointment 2004 (No 1)	
Disallowable Instrument DI2004-50 being the Hotel School Appointment 2004 (No 3).....	
Disallowable Instrument DI2004-62 being the Taxation Administration (Amounts payable – Home Buyer Concession Scheme) Determination 2004 (No 1).....	
Disallowable Instrument DI2004-64 being the Taxation Administration (Objection Fees) Determination 2004 (No 1)	
<u>Report No 49, dated 25 May 2004</u>	
Gungahlin Drive Extension Authorisation Bill 2004 (Passed 25.5.04)	
Projects of Territorial Significance Bill 2004.....	
Disallowable Instrument DI2004-53 being the Commissioner for the Environment Appointment 2004 (No 1)	
Disallowable Instrument DI2004-57 being the Blood Donation (Transmittable Diseases) Donor Form 2004.....	