

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

REPORT NO. 19 OF 1992

9 December 1992

TERMS OF REFERENCE

- (1) a Standing Committee for scrutiny of bills and subordinate legislation shall be appointed;
- (2) the Committee shall with respect to any instrument of a legislative nature which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law) made under an Act consider whether the instrument -
 - (a) is in accord with the general objects of the Act under which it is made;
 - (b) unduly trespasses on rights previously established by law;
 - (c) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (d) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly;
 - (e) or the explanatory statement accompanying it meets the technical or stylistic standards to which such an instrument or explanatory statement ought, in the opinion of the Committee, to conform;
- (3) the Committee shall with respect to the clauses of Bills introduced into the Legislative Assembly consider whether such Bills -
 - (a) unduly trespass on personal rights and liberties;
 - (b) makes rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (c) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (d) inappropriately delegate legislative powers; or
 - (e) insufficiently subject the exercise of legislative power to parliamentary scrutiny;
 - (f) or the explanatory memorandum accompanying it meets the technical or stylistic standards to which such a Bill or explanatory memorandum ought, in the opinion of the Committee, to conform;
- (4) the Committee shall consist of three members;
- (5) 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;
- (6) the majority of members constitutes a quorum of the Committee;
- (7) the Committee be provided with the necessary additional staff, facilities and resources; and
- (8) 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.

BILLS

Bill upon which no comment is offered

The Committee has examined the following Bill and offers no comment:

Bail (Amendment) Bill 1992

This Bill provides that, where a person is in custody accused of an offence allegedly committed while on bail for another offence, that person is only to be granted bail in exceptional circumstances.

Bills upon which comment is offered

The Committee has examined the following Bills and makes the following comments:

Education (Amendment) Bill 1992

This Bill provides for the establishment of a Board of Review to review decisions regarding the suspension, compulsory transfer, exclusion or expulsion of students attending a school in the ACT.

A Small Clarification may be Appropriate

Where a Board of Review sets aside a decision, clause 30F(5) provides that the Board of Review:

"may remit the matter for reconsideration in accordance with any directions or recommendations of the Board."

There is also a mention of a matter being "remitted for reconsideration" in clause 30N(1)(c) which deals with publication of decisions.

In his presentation speech Mr Moore makes it clear that the intention is that the matter is to be remitted back for "reconsideration by the school". Perhaps it may be appropriate to remove any possible ambiguity by stating this in the clauses.

Housing Assistance (Amendment) Bill (No. 2) 1992

This Bill amends provisions relating to the administration of housing assistance and incorporates amendments of the Commonwealth State Housing Agreement.

The Committee makes a minor comment. Clause 7 would insert a new section 18. The proposed section 18(2) provides for the Treasurer to establish specified trust accounts "under subsection (2) of section 85 of the Audit Act". Perhaps this phrase could be changed to "under subsection 85(2) of the Audit Act" to be consistent with the drafting style used in the proposed section 18(8), which refers twice to "subsection 85(2) of the Audit Act". That this latter style is the style now preferred is shown in several other provisions in the Bill including those in subclauses 9(3)(a), 7(a) and (b) and 8(a) and (b).

As all Members are aware, the Committee does not make any comments on the policy aspects of the legislation that it examines.

The Committee considers that this matter is not one on which the Committee would comment.

A handwritten signature in black ink, appearing to read 'Ellnor Grassby', with a long horizontal flourish extending to the right.

Ellnor Grassby, MLA
Presiding Member

9 December 1992



A.C.T. GOVERNMENT

TERRY CONNOLLY MLA

ATTORNEY GENERAL

1 Constitution Ave, Canberra ACT 2601

Phone (06) 20 50011

Mrs Ellnor Grassby MLA
Presiding Member
Standing Committee on Scrutiny
of Bills and Subordinate Legislation
ACT Legislative Assembly
1 Constitution Avenue
CANBERRA ACT 2601


Dear Mrs Grassby

In its Report No. 10 of 1992, the Standing Committee on Scrutiny of Bills and Subordinate Legislation made various comments on Determination Nos 120 and 121 made under the Motor Traffic Act 1936.

Determination No. 120

Firstly, the Committee noted that the determination made no reference to the determination that is being revoked. In my letter to you of 12 October 1992 I indicated that the Committee's requirements in this regard are being progressively notified to agencies and that an improvement over time could be expected.

Secondly, the Committee commented on the reference to the revoked determinations in the accompanying Explanatory Statement to Determination No. 120. I am advised that the references to the two revoked determinations should have read as follows -

"Determination notice dated 17 November 1989 published in ACT Gazette No. S37 on 20 November 1989."; and

"Determination notice dated 25 July 1989 published in ACT Gazette No. S14 on 25 July 1989.".

I apologise for these errors.

Thirdly, the Committee noted a reference in the Explanatory Statement to a fee for a "student card (per semester)" but no reference in the determination to this fee.