

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

REPORT NO. 17 of 1991

22 October 1991

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION

MEMBERS OF THE COMMITTEE

Mrs E Grassby, MLA (Presiding Member)
Mr B. Collaery, MLA
Mr B Stefaniak, MLA

Secretary: Mr T Duncan
Legal Advisor: Emeritus Professor D Whalan

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 (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; and
 - (d) contains matter which in the opinion of the committee should properly be dealt with in an Act of the Legislative Assembly;
- (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) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (c) make 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;
- (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.

ROLE OF THE COMMITTEE

The Committee examines all Bills and delegated legislation presented to the Legislative Assembly. The Committee does not make any comments on the policy aspects of the legislation. The Terms of Reference contain the customary principles of scrutiny that enable the Committee to operate in the best traditions of totally non-partisan, non-political technical scrutiny of legislation that have been adopted, without exception, by all scrutiny committees in Australia. Such non-partisan, non-policy scrutiny allows the Committee to assist the Assembly passing into law Acts and delegated legislation that comply with the high ideals set out in the Terms of Reference.

SUBORDINATE LEGISLATION

(A) Subordinate Legislation upon which No Comment is Offered

The Committee has examined the following delegated legislation and offers no comment.

ACT Regulations 1991 No. 20 being Magistrates Court Rules (Amendment) repeal Rule 68 and the Second Schedule as they have been rendered redundant by the amendments made by the Magistrates Court (Amendment) Act 1991 authorising fees to be set by Ministerial Determination.

ACT Regulations 1991 No. 21 being Weapons Regulations prescribe particulars to be included in records and provide for exemptions from provisions of the Act for such persons as people taking part in sport or theatrical or historical productions.

ACT Regulations 1991 No. 22 being Financial Institutions Duty Regulations (Amendment) exempt Thomas Cook from the payment of financial institutions duty in relation to its travellers' cheque business as registered financial institutions are already exempted.

ACT Determination No. 86 of 1991 made under section 101 of the Weapons Act 1991 sets fees for the issue and renewal of licences and for associated purposes.

ACT Determination No. 88 of 1991 made under section 99(1) of the Taxation (Administration) Act 1987 being the Stamp Duty (Interests in Land) Determination 1991 provides for the rates of stamp duties on the conveyance of a fee simple or the transfer of a lease.

ACT Determination No. 89 of 1991 made under section 99(1) of the Taxation (Administration) Act 1987 being the Stamp Duty (Acquisition of Businesses) (Amendment) Determination 1991 increases the rate of stamp duty payable in respect of motor vehicles acquired under a business acquisition.

ACT Determination No. 90 of 1991 made under section 99(1) of the Taxation (Administration) Act 1987 being the Stamp Duty (General Insurance and Sale and Registration of Motor Vehicles) Determination 1991 increases the rate of stamp duty and tax rates payable by licensed motor vehicle dealers, for registration of vehicles and for general insurance policies.

ACT Regulations 1991 No. 23 being Building Regulations (Amendment) repeal the provisions in the principal regulations relating to the use of prescribed forms and the forms themselves as a consequence of the passing of the Building (Amendment) Act (No. 2) 1991.

ACT Determination No. 91 of 1991 made under section 6A of the Law Practitioners Act 1970 sets the fee for the appointment as one of Her Majesty's Counsel for the ACT.

ACT Determination No. 93 of 1991 made under section 60 of the Nurses Act 1988 sets fees for registration and enrolment and for renewals of such registrations and enrolments for nurses.

ACT Determination No. 94 of 1991 made under sections 25 and 73 of the Dental Technicians and Dental Prosthetists Registration Act 1988 sets fees for the registration and renewal of enrolments for dental technicians and dental prosthetists.

ACT Determination No. 95 of 1991 made under section 68 of the Chiropractors Registration Act 1988 sets fees for the registration and renewal of enrolments for chiropractors.

ACT Regulations 1991 No. 24 being Director of Public Prosecutions Regulations add to the functions of the Director of Public Prosecutions the right to represent persons in all aspects of committal proceedings and the function of prosecuting Commonwealth offences.

(B) Subordinate Legislation upon which Comment is Offered

The Committee has examined the following subordinate legislation and offers the following comments

ACT Determination No. 83 of 1991 made under section 257 of the Magistrates Court Act 1930 sets fees for the issue of a summons, for copies of documents and for transcripts.

ACT Determination No. 84 of 1991 made under section 307B of the Magistrates Court (Civil Jurisdiction) Act 1982 sets fees for the institution of proceedings, for serving process or warrants, for copies and for inspection of documents.

ACT Determination No. 85 of 1991 made under section 50A of the Small Claims Act 1974 sets fees for the institution of proceedings.

(i) Coming into Force of Fees and Defective Explanatory Statements

These three Determinations are the first that are made under the Acts concerned under the new authority vested in the Minister under amendments made to the relevant Acts this year.

The Explanatory Statements are not drafted in the customary form and are thus not very helpful to Members of the Legislative Assembly.

In none of them is there any indication whether the fees that have been set are the same as those under the old provisions or whether there have been increases or changes. If there are changes it is usual for the Explanatory Statement to indicate what the old and new fees are, so that Members can see at a glance the changes to fees that are being made under the authority delegated by the Assembly. Indeed, in the case of Determinations Nos. 84 and 85, there is no indication of what fees have been set and for what purposes, with the relevant sentences merely saying "This Determination sets fees for the purposes of the [relevant Act]".

There is also no indication in either the Determinations or the Explanatory Statements as to when the new fees were to come into effect. It is suggested that they could not be effective from the time of their making (23 September 1991) as the relevant provisions of the three amending Acts, which conferred the powers on the Minister to determine fees, did not yet come in force until 25 September 1991.

Presumably, reliance was being placed on s. 5 of the Subordinate Laws Act 1989, which allows the exercise of powers between notification and commencement of an Act, with the provisions that are made (in this case the Determinations) coming into force on the coming into force of the Act. An impeccable illustration of reliance upon s. 5 in an instrument reported on in this Report is contained in the Weapons Regulations (Item 2 above) where reliance on s. 5 is recited, regulation 2 sets the date and the Explanatory Statement states the effect.

The Committee seeks confirmation that the above is a correct interpretation.

(ii) Small errors in determination

ACT Determination No. 92 of 1991 made under section 4 of the Public Place Names Act 1989 determines the names of a number of public places in the divisions of Phillip and Palmerston.

The Committee notes that Grampians Street is named after a mountain range that is described as

"A picturesque range of mountains in Western Victoria covering 640 sq. metres."

It is also noted that Captain James Cook becomes Capatain James Cook.

Neither of these matters goes to validity, but there appears to be a question about accuracy.

(iii) Retrospectivity

ACT Regulations 1991 No. 25 being Credit Regulations (Amendment) make a number of technical amendments to the principal regulations, prescribe charges relating to continuing credit contracts, require credit providers to express interest rates as annual rates, add mechanical breakdown or failure to the list for which insurance can be financed and widen the scope of "consumer credit insurance" to include insurance against unemployment.

Regulation 8, which amends Schedules 3, 4 and 6 to widen the scope of "consumer credit insurance" to include insurance against

unemployment, is made retrospective to 28 February 1985. The Explanatory Statement gives no explanation of the need for this long period of retrospectivity and does not indicate whether such retrospectivity would be prejudicial to any person.

(iv) New Explanatory Statements Received

In its Report No. 12 of 1991 the Committee drew attention to the fact that certain Explanatory Statements for Determinations of fees did not follow the very helpful form of listing old and new fees alongside one another and indicate the percentage difference between the fees. This form allows Members of the Legislative Assembly quickly to check the level of any changes that have been made.

Revised Explanatory Statements for ACT Determination of Fees Nos. 62 and 63 of 1991 made under section 80 of the Electricity and Water Act 1988 and section 33A of the Water Rates Act 1959 respectively have now been received. They are in the now customary helpful form.

BILLS

A) Bills upon which no Comment is Offered

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

Compensation (Fatal Injuries) (Amendment) Bill 1991

This Bill amends the provisions relating to claims for funeral expenses and abolishes the defence of contributory negligence.

Crimes (Amendment) Bill (No. 4) 1991

This Bill creates the offences of possessing child pornography and aiding and abetting inter-state offences and amends provisions relating to incitement and conspiracy.

Crimes (Amendment) Bill (No. 5) 1991

This Bill varies the provisions relating to identifying and fingerprinting, handprinting or photographing persons in custody.

Drugs of Dependence (Amendment) Bill 1991

This Bill adds offences relating to the supply of cannabis at licensed premises, a school, a playground, a youth centre, a video facility or a public swimming pool and provides for a system of offence notices for specified cannabis offences.

Law Reform (Miscellaneous Provisions) (Amendment) Bill 1991

This Bill amends the provisions relating to claims for funeral expenses and abolishes the defence of contributory negligence and the action for loss of consortium and provides for the right to claim compensation for domestic services.

Liquor (Amendment) Bill (No. 2) 1991

This Bill provides that convictions for offences under the cannabis supply offences proposed in the Drugs of Dependence (Amendment) Bill 1991 that are committed on licensed premises may be taken into account when cancellation of a licence is being considered.

Litter (Amendment) Bill 1991

This Bill increases the penalty for littering where the litter is likely to cause injury to persons or damage to property.

Prostitution (Consequential Amendments) Bill 1991

This Bill repeals a number of offences consequent upon the passing of the Prostitution Bill, changes the name of the Venereal Diseases Act 1956 to the Sexually Transmitted Diseases Act 1956 and creates an offence of passing a sexually transmitted disease to another person.

Publications Control (Amendment) Bill 1991

This Bill sets up a scheme under which films may be advertised before being classified by the Chief Censor and creates

an offence of advertising unclassified films or films that have been refused classification.

Unit Titles (Amendment) Bill 1991

This Bill would allow turning certain leases into unit titles where the subdivision has a minimum of 2 units instead of the present minimum of 4.

(B) Bills upon which Comment is Offered

(i) Commencement

Australia and New Zealand Banking Group Limited (NMRB) Bill 1991

This Bill merges the National Mutual Royal Banking group with the A.N.Z. Banking group.

The Committee notes that there is no commencement clause in the Bill. Thus, in accordance with s. 25 of the Australian Capital Territory (Self-Government) Act 1988, the Act would commence on notification in the Gazette.

However, it is also noted that the Explanatory Statement states that the merger of the two Banking groups was approved by the Reserve Bank of Australia on condition that the National Mutual Royal Banking licences are to be surrendered by 15 November 1991. Thus, to fulfil its object, the present Bill would need to become law and be notified in the Gazette before that time and would thus easily be in conformity with the now customary "six months rule" for the commencement of Acts.

(ii) Retrospectivity

Crimes (Amendment) Bill (No. 3) 1991

This Bill creates an offence of maintaining a sexual relationship with a person under the age of 12 years.

Clause 2(2) of the Bill provides that

"Section 4 shall be taken to have commenced on the day on which Part IIIA of the Crimes Act commenced."

In fact, section 4 (clause 4 of the Bill) contains the only substantive provision in the Bill. In presenting the Bill Mr Collaery very properly advised

"the house that the Bill provides for retrospective commencement [of section 4] back to when Part III of the Crimes Act commenced, namely 28 November 1985."

Thus there is a substantial element of retrospectivity and, as Mr Collaery also said in his Presentation Speech, persons could

"be put to their trial for acts which did not constitute a criminal offence at the time they were committed."

Human Rights and Equal Opportunity Bill 1991

This Bill makes specified kinds of discrimination unlawful and establishes the office of Human Rights Commissioner to whom those claiming discrimination may take their complaints.

The Committee makes two comments on the Bill.

(iii) Henry VIII Clauses

There is a number of clauses in the Bill, usually called "Henry VIII clauses", because Henry VIII, although not the first to use them, rather perfected the technique. The essence of a Henry VIII clause is that the power to alter the principal legislation is taken away from Parliament and given to someone else.

In the present instance there are powers included in the Bill to alter the law in

clause 7(1)(k) (to add to the grounds of discrimination);

clause 34(2)(j) (to declare a position to be one "in relation to which it is a genuine occupational qualification to be a person of a particular sex");

clause 40(2)(d) (to exclude persons from participation in "any prescribed sporting activity");

clause 41(2)(e) (to declare a position to be one "in relation to which it is a genuine occupational qualification to be a person of a particular race");

clause 47(d) (nothing in various anti-discrimination provisions is unlawful if there is discrimination on the ground of impairment in relation to employment or work which involves, among other grounds, "a prescribed activity");

clause 123 (the Executive may make regulations "excepting persons, activities or other things from the operation of specified provisions of Part III, ['Unlawful Discrimination'], V ['Sexual Harassment'] or VI ['Other Unlawful Acts']").

In total, these provisions confer power to alter the provisions very extensively without referring an amending Bill to the Legislative Assembly. For instance, discrimination on the ground of age is not made unlawful by the Bill (the reasons for this are addressed in the Presentation Speech at pages 9-10) and it could be added using clause 7(1)(k).

However, it is noted that all of these provisions require the derogations from the provisions to be made by regulation. To remain valid all regulations must be laid before the Legislative Assembly within 15 sitting days and can be disallowed within a further 15 sitting days. Although 30 sitting days and any preceding and intervening days can cover a substantial period of time, ultimate control is still vested in the Assembly.

An exception to this indirect control by the Legislative Assembly is contained in clause 105, which permits the Commissioner to grant exemptions from Parts III, V and VI for periods of up to 3 years. This is not just a "running in period" of 3 years for the legislation, but the Commissioner could grant further periods of exemption. However, clause 106 provides that the decisions of the Commissioner are subject to review by the Administrative Appeals Tribunal.

(iv) Reversal of the Onus of Proof

Clause 83(2) provides that

"Where, but for an exception, excuse, qualification or exemption under or by virtue of this Act, conduct would be unlawful under Part III, V or VI, the onus of establishing the exception, excuse, qualification or exemption lies on the person seeking to rely on it."

This provision unequivocally reverses the onus of proof.

Prostitution Bill 1991

This Bill's purpose is to control prostitution by decriminalisation and regulation.

The Committee makes one small point about drafting. Clause 26 (licensed premises) (on page 10) contains two subsections each of which creates an offence and each of which provides for a penalty at the end of the subsection. Clause 38 (use of prophylactics) (on page 12) contains three subsections and similarly creates three offences and has three penalties.

In the case of clause 26(2) the penalty provision provides thus:

"Penalty (for an offence against subsection (2)): \$1,000."

The penalty provision is similarly drafted for clause 38(3).

No doubt the words in brackets make the intention of the provision very clear.

However, it is noted that clauses 18 (change of address or premises) (on pages 7-8), 29 (soliciting) (on page 10) and 36 (infected persons) (on page 11) each also have two offence and two penalties, but do not have the above words in brackets. Admittedly, in the case of clause 18 there are two further subsections after the two offence subsections, and, in the case of clause 36 it would not matter as the penalties are the same in both subsections. But clause 29 seems to be the same as the two provisions with the added words.

For consistency, perhaps either the words should be removed from clauses 26(2) and 38(3) or inserted in the other three.

PRIVATE MEMBERS LEGISLATION - EXPLANATORY MEMORANDUMS

The Committee noted that private Members' Bills are not always accompanied by explanatory memorandums. The purpose of an explanatory memorandum is to assist Members and the public to understand the objectives and detailed operation of the clauses of a Bill, as well as assisting the courts and the public in the interpretation of the Bill once it has become law.

The Committee considers that it would be beneficial for each private Members Bill to be accompanied by an explanatory memorandum.

GOVERNMENT RESPONSES

The Committee has received a number of responses to comments made in earlier reports, which are listed accordingly:

- . Determinations made under the Community and Health Services Act 1985 (Reports Nos. 11, 12 and 16 of 1990 and Reports Nos. 7, 11 and 12 of 1991).
- . Co-operative Societies Regulations (Amendment) (Report No. 15 of 1991).
- . Determination No. 70 of 1991 made under the Liquor Act 1975 (Report No. 13 of 1991).
- . Wills (Amendment) Bill 1991 (Report No. 16 of 1991).

Copies of the responses are attached. The Committee thanks the Attorney-General for his response.



Ellnor Grassby, MLA
Presiding Member

22 October 1991



A.C.T. GOVERNMENT

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ATTORNEY GENERAL

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Phone 275 8853

Mrs Ellnor Grassby MLA
Presiding Member
Standing Committee on Scrutiny of Bills
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1 Constitution Avenue
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Dear Mrs Grassby

A handwritten signature in black ink, appearing to be 'Terry Connolly', written over the name 'Dear Mrs Grassby'.

I am writing in response to a long outstanding issue raised by the Committee as far back as 29 June 1990 in its Report No. 11 of 1990.

The Committee has commented and sought advice about a number of determinations made under section 78 of the *Community and Health Services Act 1985*. These concerns were raised repeatedly in its Reports No. 11, 12, and 16 of 1990 and Reports No. 7, 11 and 12 of 1991.

Sexist Language

The first concern that the Committee raised relates to the continued use of sexist language in various determinations. The actual sexist language referred to involves the use of the word "his".

In the preparation of determinations it has been the practice of the ACT and all other States of Australia to adopt the language used in Commonwealth Health Legislation and formal agreements. The terminology used is based on the definitions set out in the *Commonwealth Health Insurance Act 1973* and the *National Health Act 1953*.

While it is important to maintain consistency with State and Commonwealth Governments it is acknowledged that the language used is sexist. As such it is inconsistent with the policy of the ACT Government. Therefore, future determinations will use the words "his or her" rather than the word "his".

Spelling

The second concern raised by the Committee refers to the spelling of "inpatient" as opposed to the use and spelling of the word differently as "in-patient" throughout the balance of the determinations. This is a typographical error which is considered not to affect the validity of the determinations.

However, in line with current practice to avoid unnecessary use of hyphenated words, in future determinations there will be uniform use of the word "inpatient" replacing all references to "in-patient".

Providing both old and new fees in determinations

The Committee also indicated that the Explanatory Statement accompanying the determinations would be more helpful to Members of the Assembly if the Statement set out both the old and new fees. This procedure will be adopted in future determinations.

Source of Power to Act as Delegate of Minister

The Committee also sought confirmation that section 4 of the *Self-Government (Transitional Provisions) Act 1989* is the source of power under which the General Manager of the ACT Community and Health Service acted as the delegate of the Minister for the purposes of section 78 of the *Community and Health Service Act 1985*.

The authority for the General Manager to act as the delegate of the Minister was in place prior to Self-Government. This authority continued after Self-Government by virtue of subsection 5(1) of the *Administration Act 1989* until the repeal of the *Community and Health Service Act*. Thus, the source of power for the Minister to delegate his powers pursuant to section 78 of the *Community and Health Service Act* is to be found in subsection 5(1) of the *Administration Act* which is set out below:

"Delegations

5(1) A Minister or an administrative head may, by instrument, delegate to any person all or any of his or her powers under an Act or subordinate law."

The restriction upon this power of delegation found in subsection 5(2) of the Act does not apply in relation to the powers conferred by section 78 of the *Community and Health Service Act*.

The effect of subsection 4(1) of the *Self-Government (Transitional Provisions) Act* is that where prior to Self-Government day, the Commonwealth Minister formally responsible for the administration of the Community and Health Service made certain delegations to Mr Bissett, the General Manager at that time, then after Self-Government day those delegations continued as if Self-Government had not occurred.

From Self-Government day, although the relevant ACT Minister became responsible for delegating such powers, in the absence of any alterations of the delegation conferred by the Commonwealth Minister, that delegation continued in force. I am advised that no such alterations to the delegations have taken place.

The delegation of power only relates to the *Community and Health Service Act* and not to the *Health Services Act 1990*.

Determination No. 4 of 1990

In relation to Determination of Fees and Charges No.4 of 1990 published on 31 January 1990, and subsequently amended and published on 24 April 1990, the Committee is correct in its summation of those events. ACT Health thanks the Committee for its suggested form of wording.

The Committee also questioned whether there is any possible retrospectivity arising from the Determination of Fees and Charges No. 4 of 1990 as published in Special Gazette No. S15 of 24 April 1990. There is no such retrospectivity. The words "to take effect from 1 February 1990" are merely descriptive of the Determination of Fees and Charges as published in Special Gazette No. S1 of 31 January 1990.

Determination of Fees and Charges No. 4 of 1990 takes effect from the date of gazettal, 24 April 1990. The determination was merely to correct typographical errors. As there were no persons in the class of persons to which that determination related, the determination had no effect on revenue raising matters.

Determinations No. 63 of 1990 and No. 8 of 1991

The Committee questioned the validity of Determination No. 8 of 1991 and the reasoning behind the cancellation of Determination No. 63 of 1990 by Determination No. 16 of 1991.

On 17 April and 1 May 1991 the Legislative Assembly debated the determinations in relation to a motion for disallowance. The Chief Solicitor was requested to provide a legal opinion for the Assembly and for the Chief Executive of the Board of Health.

The Chief Solicitor replied to both the parties on 15 May 1991 advising that in his opinion, the Determination of Fees and Charges No. 8 of 1991 was invalid. Upon receipt of this opinion the Legislative Assembly declared that the determination was invalid.

Mr Bissett, Chief Executive of the Board of Health, then prepared a new Determination replacing No. 8 of 1991. The Determination of Fees and Charges No. 16 of 1991 replaced the Determination of Fees and Charges No. 8 of 1991 by cancelling No. 63 of 1990 and reproducing exactly the fees and charges set out on No. 8 of 1991. The effect of the new determination was to commence the amended fees and charges from the date of gazettal, namely, 3 June 1991.

Determinations No. 8 and 16 of 1991 increased fees and charges for nursing homes and nursing home type patients. The fees for their accommodation are taken directly from their Commonwealth pension payments. The Board of Health's ability to determine fees and charges for nursing homes and nursing home type patients is tied to the Commonwealth *Health Insurance Act*, the *National Health Act* and the Department of Social Security's Aged Pension Payments.

When the Commonwealth Government increases the pension rate the Commonwealth Department of Health, Housing and Community Services advises all States and the ACT of the new rates applicable to the various types of patients and the date the increases are to come into effect.

ACT Health, upon advice from the Chief Solicitor, does not propose to make refunds, however, should a patient request a refund, the Board will consider the request on a case by case basis. It is expected that the total amount of overcharge is in the range of \$8000 to \$9000 and the estimated cost to refund these

is in the order of \$1500. At this time there are no recorded requests for refunds.

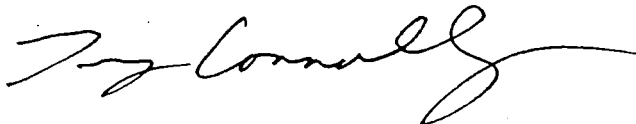
Retrospectivity of Public Health Act Determination

In its Report No. 10 of 1991, the Committee questioned the possible retrospectivity of Determination No. 13 of 1991 made under section 11A of the *Public Health Act 1928*. The Regulations made under the *Public Health Act 1928* specify that licences are for a calendar year commencing on 1 January. As all licence fees are collected in the first week of January each year, there were no fees collected under Determination No. 78 of 1991 after 31 January 1991. Accordingly, there is no retrospectivity as the amended Determination is merely descriptive of the period of time which the earlier determination was intended to cover.

I am aware that the Committee, in its Report No 12 of 1991, has also commented on determinations No. 21 and 66 made under section 48 of the *Health Services Act 1991*. I expect to respond to these comments soon.

I trust that the foregoing information is of assistance to the Committee.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Terry Connolly', with a long horizontal flourish extending to the right.

Terry Connolly

-3 OCT 1991



A.C.T. GOVERNMENT

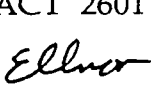
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Mrs Ellnor Grassby MLA
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Dear Mrs Grassby

In its Report No.15 of 1991 the Legislative Assembly Standing Committee on Scrutiny of Bills and Subordinate Legislation noted an inconsistency concerning the commencement of the Co-operative Societies Regulations (Amendment).

The Committee's observations are correct. It was intended that the Regulations (Amendment) be notified in the Gazette on the same day as the Co-operative Societies (Amendment) Act 1991 was notified with the result that both pieces of legislation would commence on the same day, namely, 26 August 1991. Regrettably the Gazettal of the Regulations (Amendment) did not take place as intended.

In revising the Regulations (Amendment) to take account of its non-gazettal regulation 1, which related to commencement, was omitted with the effect that, upon its Gazettal on 10 September 1991, the Regulations (Amendment) commenced. Unfortunately the Explanatory Memorandum was not altered to reflect the removal of the commencement regulation.

I attach a corrected Explanatory Memorandum for the Committee's assistance.

The Committee has questioned whether, as a consequence of the commencement of the Amending Act and the Regulations (Amendment) on different days, any problems arose.

I am advised that the requirements of the package of legislation could not be, and were not, applied to societies prior to the commencement of the Regulations (Amendment) and, accordingly, no problems have emerged.

I trust the foregoing information is of assistance to the Committee.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Terry Connolly". The signature is fluid and extends across the line.

Terry Connolly

- 2 OCT 1991