

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

REPORT NO. 4 OF 1996

24 April 1996

TERMS OF REFERENCE

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

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON SCRUTINY OF
BILLS AND SUBORDINATE LEGISLATION

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Mr Greg Cornwell, MLA
Speaker
Legislative Assembly
CANBERRA ACT 2601

Dear Mr Cornwell,

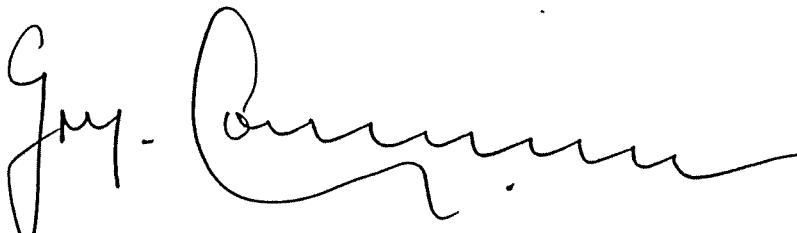
Please find enclosed a copy of Report No. 4 of 1996 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. Under its resolution of appointment, the Committee is empowered to send a report to you while the Assembly is not sitting so that it may be circulated to Members. I seek your approval to print and circulate Report No. 4 of 1996.

Yours sincerely,



Rosemary Follett, MLA
Chair

24 April 1996



Approved
Greg Cornwell, MLA

24 April 1996

Retrospectivity

When the principal Act was amended in 1994, licensing by the former ACTEW Authority was replaced with licensing by the new Electrical Licensing Board. However, as the Explanatory Memorandum states:

“During the first month after the amending legislation came into force on 5 October 1994, the Authority continued to issue licences.”

To correct this position, there are two aspects of retrospectivity in the Bill.

First, clause 6 of the Bill validates the grant of electrical contractors licences that were issued between 5 October 1994 and 8 November 1994.

Secondly, clause 7 of the Bill validates the renewal of electrical contractors' and electricians' licences that were renewed between 5 October 1994 and 8 November 1994.

There is also another aspect of retrospectivity in clause 7.

As the Explanatory Memorandum states

“When ACTEW became a corporation in 1995, responsibility for the inspection of customers' electrical installations was transferred to the Department of Urban Services”.

Transitional arrangements were made for this by Subordinate Law No. 24 of 1995, the Electricity and Water (Modification) Regulations, which modified the *Electricity and Water (Corporatisation) (Consequential Provisions) Act 1995* to transfer the responsibility of appointing inspectors from the ACTEW Corporation to the Chief Executive of the Department of Urban Services.

Clause 5 of the present Bill inserts new section 33 into the principal Act to make this transfer of authority to the Chief Executive permanent.

Clause 7 of the Bill validates the appointment of electrical inspectors made by the Chief Executive since 1 July 1995. As a result of this validation, Subordinate Law No. 24 of 1995 becomes redundant and is repealed by clause 8 of the Bill.

SUBORDINATE LEGISLATION

Subordinate Legislation - No Comment

The Committee has examined the following subordinate legislation and offers no comment:

Determination No. 25 of 1996 made under section 20 of the Remuneration Tribunal Act 1995 determines fees and allowances for members of the ACT Remuneration Tribunal.

Subordinate Legislation - Comments

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

Subordinate Law No. 3 of 1996 being the *Building Regulations (Amendment)* prescribes the amounts and periods relating to the application of statutory warranties and insurance scheme for residential building work.

Incorrect Reference in the Explanatory Statement

The Explanatory Statement states that Part V of the *Building Act 1972* provides for the application of statutory warranties and an insurance scheme to residential building work. It goes on to state that the amounts and periods in Part V are now prescribed by regulations.

The changes to the principal Act that led to the prescription of the amounts and periods by the present regulations were effected by the *Building (Amendment) Act 1995*. However, the Part of the *Building Act 1972* that deals with the statutory warranties and insurance scheme (and which now provides for prescription by regulations) is not Part V of the principal Act but Part VA of the Act.

Subordinate Law No. 5 of 1996 being the *Weapons Regulations (Amendment)* provides that the Minister may, by notice in the *Gazette*, authorise a body to operate a paint pellet range, subject to specified detailed conditions relating to the operation of that range.

Comment on the Explanatory Statement

The Explanatory Statement states as follows:

“This Weapons Regulation [sic] (Amendment) provides for authorised bodies to be exempt from item 11 of schedule 3 of the Act in so far as it relates to the possession of paint pellet guns. Schedule 3 lists the weapons currently prohibited in the Australian Capital Territory.”

Item 11 of Schedule 3 of the *Weapons Act 1991* designates as a prohibited weapon:

“A weapon capable of discharging by any means any irritant liquid, powder, gas or chemical or any pyrotechnic flare or dye.”

A paint pellet gun is defined in new subregulation 8A(9) to mean

“a weapon capable of discharging by any means a paint or dye marking pellet.”

