STANDING COMMITTEE ON SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION

REPORT NO. 8 OF 1992

24 June 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 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;

(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.

BILL

Bill upon which Comment is Offered

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

Rates and Land Tax (Amendment) Bill 1992

This Bill changes the factors used to calculate general rates on all ACT land, amends the provisions for payments relating to rural land and inserts a definition of City Area.

Retrospectivity

Clause 4(2) of the Bill provides that the amendments to be effected by clause 4(1) "shall be deemed to have commenced on 2 April 1992."

The Committee always looks very carefully at aspects of proposed legislation that would act prejudicially. It is suggested that a relevant question under the Committee's Terms of Reference is whether the retrospective operation of the Bill would prejudicially affect the rights of any person.

Unfortunately, in the short time available for the writing of this report, the Committee have been unable to get access to a complete version of the City Area Leases Act 1936 as it was when repealed by the Land (Planning and Environment) (Consequential Provisions) Act 1991. Thus what the Committee says here may possibly be affected when considered against that Act.

The definition of "the City Area" in s. 4 of the Rates and Land Tax Act 1926 depended on the definition of "the City Area" in s. 4 of the City Area Leases Act 1936.

The City Area Leases Act 1936 was repealed by the Land (Planning and Environment) (Consequential Provisions) Act 1991.

Thus since the commencement of the Land (Planning and Environment) (Consequential Provisions) Act 1991 there has arguably been an hiatus in the Rates and Land Tax Act 1926.

Clause 4(1) of the present Bill aims to close that gap and clause 4(2) would close it back to the effective date of the repeal. Clause (1) provides thus:

> "Section 4 of the Principal Act is amended -
>
> (a) by inserting in subsection (1) the following definition:
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> '"City Area" has the same meaning as in the City Area Leases Act 1936 as in force on 1 April 1992;' and
>
> (b) by omitting from subsection (1) the definition of 'the City Area'."

The Committee notes that the phrase "City Area" is used in the present clause and it is to have the same meaning as in the City Area Leases Act 1936. But the phrase in the latest reprint of the City Area Leases Act 1936 is "the City Area". The correctness of the present draft needs to be confirmed.

Explanatory Memorandum

The Committee noted that the otherwise very helpful explanatory memorandum did not indicate what the previous rate per annum in percentage terms was. Members and others wishing to find this information would have to refer to the relevant section of the Rates and Land Tax Act. Given that the rate has actually decreased, perhaps it would have been helpful for an explanation on the effect of the change in rates to be given.

Ellnor Grassby, MLA
Presiding Member

24 June 1992