

STANDING COMMITTEE ON

SCRUTINY OF BILLS AND

SUBORDINATE LEGISLATION

REPORT NO. 7 of 1991

17 April 1991

STANDING COMMITTEE FOR THE SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION

MEMBERS OF THE COMMITTEE

Ms C Maher MLA (Presiding Member)
Mr T Connolly 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.

BILLS

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

Unlawful Games (Amendment) Bill 1991

This Bill legalizes the playing of two-up on Anzac Day subject to a number of conditions.

SUBORDINATE LEGISLATION

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

ACT Regulations 1991 No. 6 being the Public Baths and Public Bathing Regulations (Amendment)

This instrument removes the Deakin Swimming Pool from the list of baths declared to be public baths as it is no longer under government control.

ACT Determination No. 6 of 1991 made under section 12F(1) of the *Liquor Act 1975*

This instrument determines the remuneration and allowances to be paid to the Chairperson and Members of the Liquor Licensing Board.

ACT Determination No. 5 of 1991 made under section 4 of the *Public Place Names Act 1989*

This instrument determines the name of the first division to be named in the town of Gungahlin as Palmerston.

ACT Determination No. 7 of 1991 made under section 12 of the *Housing Assistance Act 1987* is the Homebuyer Housing Assistance Program

This instrument revokes the 1930 Scheme for providing and assisting in providing dwelling houses, varies the 1983 scheme for providing concessional home loans and the 1986 scheme for providing or assisting in providing dwelling houses and creates a new housing assistance program.

ACT Determination No. 9 of 1991 made under section 53A of the *Poisons Act 1933* and section 204 of the *Drugs of Dependence Act 1989*

This instrument determines the fees payable relating to the manufacture or selling of, or the conduct of a research program relating to specified poisons and drugs.

ACT Regulations 1991 No. 7 of 1991 being the City Area Leases (Betterment Charge Assessment) Regulations.

This instrument provides for the calculation and remission of betterment charges consequent on the passing of the *City Area Leases (Amendment) Act 1991*.

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

(a) Errors remain and no formal reply received.

ACT Determination No. 8 of 1991 made under section 48 of the *Health Services Act 1990*

This instrument cancels ACT Determination of Fees and Charges No. 63 of 1990 and determines hospital, nursing home and various other health fees and charges to take effect on 28 March 1991.

In *Reports Nos. 11, 12 and 16 of 1990* the Committee raised a number of matters in previous determinations, which were the predecessors to the current Determination. These ranged from possible errors to a question of possible invalidity. The Committee does not appear to have received a formal response to these queries.

Some of the matters are repeated in the current Determination, and the Committee again raises the same queries that were expressed in its earlier reports.

(b) No numbering or explanatory statements.

Exemption under sections 10(3) and 12(4) of the *Tobacco Act 1927*

This instrument exempts contracts and agreements between the Canberra and District Rugby League Football Club Limited and Rothmans of Pall Mall Pty Ltd relating to the conduct of the rugby league matches at Bruce Stadium from 22 March 1991 until 31 December 1991 from the prohibitions on advertising and sponsorship.

Exemption under sections 10(3) and 12(4) of the *Tobacco Act 1927*

This instrument exempts contracts and agreements between the New South Wales Rugby League Limited and Rothmans of Pall Mall Pty Ltd relating to the conduct of the rugby league matches at Bruce Stadium from 22 March 1991 until 31 December 1991 from the prohibitions on advertising and sponsorship.

The Committee noted that the exemptions have not been numbered so that they can be readily identified, and that there are no explanatory statements provided which would help Members of the Assembly and others to know the need for the exemptions.


Carmel Maher, MLA
Presiding Member

17 April 1991