

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

REPORT NO. 16 OF 1992

27 October 1992

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON
SCRUTINY OF BILLS AND
SUBORDINATE LEGISLATION

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Ms Roberta McRae, OAM, MLA
Speaker
Legislative Assembly
CANBERRA ACT 2601

Dear Ms McRae

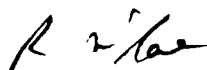
Please find enclosed a copy of Report No. 16 of 1992 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. Under its resolution of appointment, the Committee is empowered to send a report to you while the Assembly is not sitting so that it may be circulated to Members. Accordingly, I seek your approval to print and circulate Report No. 16 of 1992.

Yours sincerely



Ellnor Grassby, MLA
Presiding Member

27 October 1992



Approved
Roberta McRae, OAM, MLA
Speaker

27 October 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

Bills upon which no comment is offered.

The Committee has examined the following Bills and makes no comment.

Payroll Tax (Amendment) Bill 1992

This Bill varies the exemption provisions relating to payroll tax.

Pesticides (Amendment) Bill 1992

This Bill provides that the Registrar needs to publish a notice dealing with pesticides in the *Gazette* and in a local daily newspaper only once instead of three times during 2 consecutive weeks as at present and removes the requirement to name every pesticide in the notice but requires the Registrar to specify the classes of pesticide and to make details of the pesticides publicly available for inspection.

Bill upon which comment is offered.

The Committee has examined the following Bill and makes the following comment.

Workers' Compensation Supplementation Fund (Amendment) Bill 1992

This Bill provides for the reimbursement to the Territory of the amount determined by the Minister to be the expense incurred by the Territory in funding the position of the Manager of the Supplementation Fund and removes sexist language from the principal Act.

Retrospectivity

The Committee always looks very carefully at aspects of proposed legislation that would act retrospectively. 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.

In the present case the reimbursement of the Territory for the expense of funding the position of Manager of the Supplementation Fund is made retrospective to the 1990/1991 financial year. The explanatory memorandum states that:

"The retrospective application is necessary to meet the obligations that have been anticipated in the budget process."

Presumably the retrospectivity will not prejudice the claims of any individuals for compensation out of the Supplementation Fund.

Removal of Sexist Language

Once again, the Committee is pleased to note that the opportunity has been taken to remove the sexist language from the principal Act.

SUBORDINATE LEGISLATION

Subordinate legislation upon which no comment is offered

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