



2005

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## Parliament of Tasmania

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### JOINT SELECT COMMITTEE

### WORKING ARRANGEMENTS OF THE PARLIAMENT

### REPORT NO. 14

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## DISSENTING STATEMENTS

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#### MEMBERS OF THE COMMITTEE

*Mr Aird* MLC (Chair)  
*Mrs Smith* MLC  
*Mr Wilkinson* MLC  
*Mr Wing* MLC

*Mrs Jackson* MHA  
*Mr Llewellyn* MHA  
*Mrs Napier* MHA  
*Ms Putt* MHA

## **INTRODUCTION**

The Committee was established by both Houses of the Tasmanian Parliament at the commencement of the First Session of the Forty-fourth Parliament on 7 October 1998. The Terms of Reference for the Committee are set out below.

## **TERMS OF REFERENCE**

That a Joint Select Committee be appointed with power to send for persons and papers, with leave to sit during any adjournment of either House and with leave to adjourn from place to place, and with leave to report from time to time, to inquire into and report upon —

- (1) Measures for reform which may improve the performance and efficiency of the Parliament and its Members having particular regard to, but not confined by, a consideration of —
  - (a) the Statement of Principles agreed to by resolution of the Legislative Council on the 3rd and 4th day of September 1997;
  - (b) the procedures for the resolution of dispute and deadlocks between both Houses including standing order provisions and Parliamentary custom and conventions;
  - (c) the system of Statutory Standing, Joint Sessional and Joint Select Committees of both Houses, their roles, functions and relevance to contemporary Parliamentary practice;
  - (d) whether a separate Appropriation Act for —
    - (i) the Parliament;
    - (ii) the Auditor-General's office;
    - (iii) the Ombudsman's Office;
    - (iv) the Electoral Office;
 is desirable.
  - (e) and any other matters incidental thereto.
- (2) That the Committee be authorised to disclose or publish, as it thinks fit, any evidence or document presented to it prior to such evidence being reported to either House.
- (3) That the Committee finalise its report by 31 March 1999.\*

\*Since the initial establishment of the Committee, it has been reconstituted as necessary following prorogations to allow for the continuation of its enquiries. The latest re-establishment of the Committee occurred on 7 April 2004.

The Committee has tabled the following reports to date –

Report No. 1	Estimates
Report No. 2	Parliamentary Standing Committees
Report No. 3	Government Business Enterprises and Government Corporations Scrutiny Committees
Report No. 4	Review of the Estimates Committees Process November 1998
Report No. 5	Arrangements for the Opening of Parliament
Report No. 6	Citizen's Right of Reply
Report No. 7	New Parliamentary Committee System
Report No. 8	Committee Meeting Times and Resources
Report No. 9	Selection of Government Businesses for Scrutiny
Report No. 10	Acknowledgement of Traditional People
Report No. 11	Issues of Parliamentary Procedure
Report No. 12	E-Petitions
Report No. 13	Electronic Committee Meetings

## **MINORITY REPORTS OR DISSENTING STATEMENTS**

### **BACKGROUND**

This Committee considered whether Minority Reports or Dissenting Statements to committee reports should be permitted. Some members argued that by providing a mechanism for dissent would encourage their use and detract from the overall aim of committees to reach a consensus.

### **Definitions**

Minority Report – A full separate report prepared by the dissenting member outlining the opposing views and is attached to the committee report.

Dissenting Statement – A statement prepared by the dissenting member outlining the opposing views to a particular section. This statement forms part of the committee report.

### **Other Australian States**

The provision for dissents to committee reports in other Australian States was considered and the following table is a summary of the information received.

	<b>ACT</b>	<b>NSW</b>	<b>NT</b>	<b>QLD</b>	<b>SA</b>	<b>VIC</b>	<b>FED</b>
Minority Report Allowed	No	No	Yes	Yes	Yes	Yes	Yes
Dissenting Statement Allowed	Yes	No	Yes	Yes	Yes	Yes	Yes
Legislation	Standing Orders	N/A	SO 277	Standing Orders	<i>Parliamentary Committees Act 1991</i>	<i>Parliamentary Committees Act 2003</i>	SO 38 SO 349

### **Options**

The options available to record dissents are as follows :

- Moving amendments to the draft report, the voting on which is recorded in the minutes which are subsequently tabled and become public;
- Submitting an alternative draft report to the committee;
- Making a statement in the House, by leave, when the report is tabled;
- Including the dissent or protest in the committee report; or
- Stating the dissent or protest in debate on any motion moved in relation to the report.

In extreme circumstances members may record their dissent by resigning from the committee. In such instances members have no automatic right to explain their resignation in the House, but could do so in a statement made by leave.

If a committee is unable to agree upon a report, it may present a special report to that effect, with its minutes and the transcript of evidence. Even if the circumstances of the committee's inability to agree are widely known, the committee should still report the circumstances to the House, if only as a matter of form and to place them on record.

The House of Representatives Standing Order No. 349 – Consideration of draft report, states –

At a meeting convened for the purpose, the chair shall present his or her draft report to the committee. The report may be considered at once, provided copies have been circulated in advance to each member of the committee. The report shall be considered paragraph by paragraph, and appendixes shall be considered in order at the conclusion of consideration of the report itself.

A member objecting to any portion of the report shall vote against it or move an amendment at the time the particular paragraph or appendix is under consideration.

If any member dissents from all or part of the report or wishes to attach a protest to a report, the member may add a protest or dissenting report to the main report.

Most states that allow minority reports or dissenting statements, require that they be prepared by the member dissenting.

### **RECOMMENDATION**

- Dissenting statements be allowed in accordance with the guidelines set out in Appendix 1.
- The following Standing Order be incorporated in the Standing Orders of both Houses :

“The Chair shall sign the unanimous or majority report. A dissenting statement, confined to issues in dispute, may be added to the report but may not be presented separately to either House of Parliament”.

**Parliament House, Hobart  
31 August 2005**

**Michael Aird MLC  
Chair**

## **Dissenting Statements –Guidelines**

### **What do dissenting statements cover?**

A dissenting statement must be confined to issues in dispute.

This means the issues to be addressed in a dissenting statement cannot range outside the bounds of the majority report and must be limited to matters where the majority has made a finding or a recommendation.

This approach means the dissent cannot introduce any committee evidence that does not relate to the terms of reference, and/or a finding, and/or a recommendation. A dissenting statement cannot be used to publish what the majority has decided should be suppressed or private committee documents.

Where there is a dispute relating to whether a dissenting statement complies with the guidelines, the Presiding Officer/s shall make a determination and endorse its attachment to the committee report.

### **Indication and preparation of dissenting statement**

A member voting against a question when put before the committee must raise the likelihood of a dissenting statement. It should be recorded in the minutes as a division. This is to prevent last minute dissensions that can affect the program of a committee's inquiry.

If the committee agrees dissents can be noted in the body of the report at the point in dispute. This may be the simple inclusion of a dissenting paragraph in the text. If not, the member can provide a separate dissenting statement.

The dissenting member is responsible for the preparation of their statement.

It should be provided in a suitable electronic format to the committee secretary within two working days after the committee's report is adopted.

The member must sign it.

### **How are dissents included?**

If there is a dissent, a committee will need to deliberate on how they wish to word the report. Committees may wish to define 'the Committee' and 'the majority of the Committee' in an attempt to differentiate the parts of the report that are unanimous, and parts that only a majority has agreed to.

Other committees may state that "*The majority of the Committee recommends that .... Member A dissented from this Recommendation*". This statement of

dissent may be followed up with a dissenting statement or there may be no further explanation.

**How are dissenting statements tabled?**

The dissenting statement needs to be 'attached' to the committee report.

Committees should give a clear indication of when they intend to table the report and the dissenting member must work to that timeline.