



JOINT PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION

ANNUAL REPORT 2019-2020

INTRODUCTION

The Joint Parliamentary Standing Committee on Subordinate Legislation (the Committee) is a statutory committee of the Tasmanian Parliament. The Committee is established under the provisions of Section 3 of the *Subordinate Legislation Committee Act 1969* (the Act). Members are appointed at the beginning of each Parliamentary session, and vacancies are filled as when required.

The Committee's function is to examine every regulation, by-law and rule made by an entity under a power delegated to the entity by the Parliament. Section 2 of the Act provides that regulation means a regulation, rule, or by-law that is made under an Act and is required by law to be laid before both Houses of Parliament, but does not include rules of court made by the judges, or by a majority of them, under the authority of an Act. Essentially, regulations comprise all subordinate legislation made by the Governor-in-Council, but do not include Orders, Proclamations or Rules of the Supreme Court. By-laws are those made by municipal councils, marine boards and other semi-government authorities.

By virtue of section 8 of the Act the Committee is required to conduct its examination of regulations with particular reference to the question of whether or not —

- (a) the regulation appears to be within the regulation-making power conferred by, or in accord with the general objects of, the Act pursuant to which it was made;
- (b) the form or purport of the regulation calls for elucidation;
- (c) the regulation unduly trespasses on personal rights and liberties;
- (d) the regulation unduly makes rights dependent on administrative decisions and not on judicial decisions;
- (e) the regulation contains matters that, in the opinion of the Committee, should be properly dealt with by an Act and not by regulation; or
- (f) whether the requirements of the Subordinate Legislation Act 1992 have been met.

COVID-19 Instruments

Arising from the COVID-19 pandemic, the Parliament of Tasmania passed the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* on 26 March 2020. The Act prescribed a role for the Committee to scrutinize certain notices under the Act.

In response to this new scrutiny role, the Committee gave extensive consideration to an appropriate mechanism for it to report upon its deliberations on all notices gazetted under the Act in the interest of public transparency. The Committee agreed to —

- Meet twice weekly on Tuesdays and Fridays until further notice;
- Publish a list of the notices to be discussed by the Committee, and documentation relating to notices to be examined by the Committee, to be published on the Committee website prior to each meeting; and
- Present regular reports to Parliament, which will contain further information in relation to the completed examinations of notice.

The Committee in its work over the last three months examining COVID-19 instruments considered issues in respect to the type of subordinate legislative instruments that it is expected to scrutinize and this is a matter of ongoing consideration.

COMMITTEE ACTIVITY

General Overview

During the reporting period the Committee held a total of thirty (30) meetings in relation to the scrutiny of instruments and scrutiny of notices issued under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. The Committee examined sixty-three (63) instruments published in the Government Gazette (this figure does not include notices, detail in relation to notices is provided separately in this Report). A breakdown of the instruments is provided as follows:

- five (5) by-laws;
- one (1) order;
- fifty-two (52) regulations; and
- five (5) rules.

As part of the examination of these instruments, the Committee requested information from Ministers in writing, in relation to regulations imposing significant increases in fees, explanations of some provisions and other issues of concern. The majority of queries were resolved to the Committee's satisfaction using this mechanism to obtain further information.

The Committee has from time to time encountered some issues in the timeliness of receiving information or the adequacy of information from Departments. The Committee works to remind Departments and Authorities of their respective obligations to ensure that explanatory materials are adequate and that the requirements of the Act and the *Acts Interpretation Act 1931* and *Subordinate Legislation Act 1992* are met.

During the later part of 2019 and early 2020 there was an exchange of correspondence with the Premier and his Department. The Premier has confirmed that he had requested the Secretary of Department of Premier and Cabinet remind all Heads of Departments that employees involved in the preparation of statutory rules that they must refer to the Manual and relevant provisions in the *Subordinate Legislation Act 1992* when making subordinate legislation.

The Committee continues to monitor the timeliness of the preparation for and provision of supporting documentation to the Committee and timely tabling of legislative instruments.

During the year the Committee also received briefings from Departmental officers in relation to the following instruments –

- FISHERIES (MACKEREL) RULES 2019 (S.R. 2019, No. 5);

- ENVIRONMENTAL MANGEMENT AND POLLUTION CONTROL (ENVIRONMENTAL LICENCES) REGULATIONS 2019 (S.R. 2019, No. 20);
- CENTRAL COAST ANIMAL CONTROL BY-LAW (No. 1 of 2018);
- ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL (SMOKE) REGULATIONS 2019 (S.R. 2019, No. 34);
- FISHERIES (GENERAL AND FEES) AMENDMENT REGULATIONS 2019 (S.R. 2019, No. 38);
- ROAD RULES 2019 (S.R. 2019, No. 61);
- HOBART CITY COUNCIL SINGLE-USE PLASTICS BY-LAWS (No. 1 of 2020);
- POLICE OFFENCES AMENDMENT REGULATIONS (S.R. 2020, No. 31); and
- WATER MANAGEMENT AMENDMENT REGULATIONS (S.R. 2020, No. 38).

The briefings provided Members with further details and clarification of specific issues.

In addition, to the abovementioned mechanisms used by the Committee to clarify specific issues and obtain further information, the Committee resolved to commence inquiries to scrutinize instruments in more detail through the inquiry process. The Committee resolved to commence inquiries into the following instruments —

FISHERIES (ROCK LOBSTER AMENDMENT RULES 2019 (S.R. 2019, No. 62)

On 23 October 2019 the Committee resolved to commence an Inquiry into the FISHERIES (ROCK LOBSTER AMENDMENT RULES 2019 (S.R. 2019, No. 62) (the Rules). The Committee held Public Hearings on 31 October 2019.

The Rules were resolved as “examined” on 19 March 2019.

A draft report is currently under consideration by the Committee.

STATE SERVICE AMENDMENT REGULATIONS 2020 (S.R. 2020, No. 24)

On 8 May 2020 the Committee resolved to commence an Inquiry into the STATE SERVICE AMENDMENT REGULATIONS 2020 (S.R. 2020, No. 24) (the Regulations). The Committee held Public Hearings on 15 May and 19 May 2020.

The Regulations were resolved as ‘examined’ on 11 June 2020.

A Report regarding the Committee’s findings was presented in the Legislative Council on 24 June 2020 and tabled in the House of Assembly on 25 June 2020.

WINNALEAH IRRIGATION DISTRICT BY-LAWS 2019

On 22 May 2020 the Committee resolved to commence an Inquiry into the WINNALEAH IRRIGATION DISTRICT BY-LAWS 2019 (the By-Laws). The Committee held Public Hearings on 5 June 2020.

The By-Laws are still currently under consideration of the Committee.

Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 – Scrutiny of Notices

General Overview

The Committee examined twenty-two (22) Notices issued under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*. In this reporting year eighteen (18) notices have been reported upon.

As part of the examination of these notices, the Committee requested information from Ministers in writing, seeking clarification of specific issues and requesting further information. In most instances, queries were resolved to the Committee’s satisfaction

using this mechanism to obtain further information. Other mechanisms used to obtain further information and clarification of specific issues were briefings and following an inquiry process.

The Committee reported upon all notices issued under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* in this reporting period.

The Committee received briefings from Departmental Officers in relation to the following Notices issued under the Act —

- NOTICE UNDER SECTION 22 (LIQUOR AND GAMING LICENCE FEES); and
- NOTICE UNDER SECTION 23 (WAIVE TAXI ADMINISTRATION FEES IN 2020).

The Committee resolved to commence Inquiries into the following Notices issued under the Act —

NOTICE UNDER SECTION 20 (THE SUPREME COURT)

On 5 May 2020 the Committee resolved to commence an Inquiry into the Notice issued under section 20 (The Supreme Court) of the Act. The Committee held Public Hearings on 8 May 2020.

The Notice was resolved as ‘examined’ on 8 May 2020.

A Report regarding the Committee’s findings was presented in the Legislative Council on 11 June 2020 and tabled in the House of Assembly on 24 June 2020.

NOTICE UNDER SECTION 20 (THE MAGISTRATES COURT)

On 5 May 2020 the Committee resolved to commence an Inquiry into the Notice issued under section 20 (The Magistrates Court) of the Act. The Committee held Public Hearings on 8 May 2020.

The Notice was resolved as ‘examined’ on 8 May 2020.

A Report regarding the Committee’s findings was presented in the Legislative Council on 11 June 2020 and tabled in the House of Assembly on 24 June 2020.

NOTICE UNDER SECTION 22 (RESIDENTIAL TENANCIES)

On 12 May 2020 the Committee resolved to commence an Inquiry into the Notice issued under section 22 (residential tenancies) of the Act. The Committee held Public Hearings on 22 May 2020.

The Notice was resolved as ‘examined’ on 16 June 2020.

A Report regarding the Committee’s findings was presented in the Legislative Council on 19 June 2020 and tabled in the House of Assembly on 24 June 2020.

NOTICE UNDER SECTION 16 (POISONS ACT 1971)

On 26 May 2020 the Committee resolved to commence an Inquiry into the Notice issued under section 16 (*Poisons Act 1971*) of the Act. The Committee held Public Hearings on 5 June 2020.

The Notice was resolved as ‘examined’ on 16 June 2020.

A Report regarding the Committee’s findings was presented in the Legislative Council on 19 June 2020 and tabled in the House of Assembly on 24 June 2020.

NOTICE UNDER SECTION 23 (WAIVE LAND IN 2019-20 FOR LAND TAX LIABILITIES UNDER \$150)

On 23 June 2020 the Committee resolved to commence an Inquiry into the Notice issued under section 23 (Waive land tax in 2019-20 for land tax liabilities under \$150) of the Act. The Committee held Public Hearings on 26 June 2020.

The Notice was resolved as 'examined' on 26 June 2020.

A draft report is currently under consideration by the Committee.

MEETING ATTENDANCE RECORD

Committee Membership – Second Session - Forty-Ninth Parliament

Legislative Council

Hon Tania Rattray MLC (Chair)
Hon Ruth Forrest MLC (Deputy Chair)
Hon Meg Webb MLC

House of Assembly

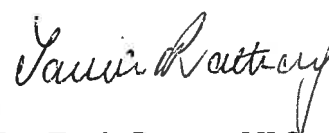
Hon Jacqui Petrusma MP
(from 30 July 2019 to 11 March 2020)
Ms Alison Standen MP
Mr Nic Street MP (from 18 March 2020)
Mr John Tucker MP

Committee Attendance

	<i>Forrest</i>	<i>Rattray</i>	<i>Webb</i>	<i>Petrusma</i>	<i>Standen</i>	<i>Street</i>	<i>Tucker</i>
08 August	✓	✓	✓	✓	✓	N/A	✓
12 September	✓	✓	✓	✓	✓	N/A	✓
17 October	✓	✓	✓	<i>Apology</i>	✓	N/A	✓
23 October	<i>Apology</i>	✓	✓	✓	✓	N/A	✓
31 October	✓	✓	✓	✓	✓	N/A	✓
28 November	✓	<i>Apology</i>	✓	✓	✓	N/A	✓
23 December	✓	✓	✓	✓	<i>Apology</i>	N/A	✓
19 March	✓	✓	✓	N/A	✓	✓	✓
26 March	✓	✓	✓	N/A	✓	✓	✓
15 April	✓	✓	✓	N/A	✓	✓	✓
21 April	✓	✓	✓	N/A	✓	✓	✓
24 April	✓	✓	✓	N/A	✓	✓	✓
28 April	✓	✓	✓	N/A	✓	✓	✓
01 May	✓	✓	✓	N/A	✓	✓	✓
05 May	✓	✓	✓	N/A	✓	✓	✓
08 May	✓	✓	✓	N/A	✓	✓	✓
12 May	✓	✓	✓	N/A	✓	✓	✓
15 May	✓	✓	✓	N/A	✓	✓	✓
19 May	✓	✓	✓	N/A	✓	✓	✓
22 May	✓	✓	✓	N/A	✓	✓	✓

26 May	✓	✓	✓	N/A	✓	✓	✓
29 May	✓	✓	✓	N/A	✓	✓	✓
02 June	✓	✓	✓	N/A	✓	✓	✓
05 June	✓	✓	✓	N/A	✓	✓	✓
11 June	✓	✓	✓	N/A	✓	✓	✓
16 June	✓	✓	✓	N/A	✓	✓	✓
19 June	✓	✓	✓	N/A	✓	✓	✓
23 June	✓	✓	✓	N/A	✓	✓	✓
26 June	✓	✓	✓	N/A	✓	✓	✓
29 June	✓	✓	✓	N/A	✓	✓	✓

Date: 24/09/2020



**Hon Tania Rattray MLC
Chair**