



2023

Parliament of Tasmania

JOINT STANDING COMMITTEE SUBORDINATE LEGISLATION

ANNUAL REPORT 2022-2023

Members of the Committee

(as at 30 June 2023)

Legislative Council

Hon Tania Rattray MLC (Chair)

Hon Dean Harriss MLC

Hon Leonie Hiscutt MLC

House of Assembly

Ms Janie Finlay MP (Deputy Chair)

Mr Simon Wood MP

Mr Dean Young MP

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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. The Committee also examines other instruments referred to it by Acts.

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.

Notices issued under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

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 issued under the Act. In this reporting period no notices were issued. Further, an emergency cessation day under the Act was declared for 30 April 2023. Section 12 of the Act prescribes that no notices may be issued after the emergency cessation day.

COMMITTEE ACTIVITY

General Overview

During the reporting period the Committee held a total of nine (9) meetings in relation to the scrutiny of regulations.

The Committee examined sixty-five (65) instruments published in the Government Gazette. A breakdown of the examined instruments is provided as follows:

- four (4) by-laws;
- one (1) order;
- fifty-six (56) regulations; and
- four (4) rules.

As part of the examination of these instruments, the Committee requested information from Ministers in writing, in relation to 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.

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 –

1. PUBLIC SECTOR SUPERANNUATION REFORM AMENDMENT REGULATIONS 2022 (S.R. 2022, No. 11);
2. AGRICULTURAL AND VETERINARY CHEMICALS (CONTROL OF USE) REGULATIONS 2022 (S.R. 2022, No. 14);
3. GAMING CONTROL REGULATIONS 2022 (S.R. 2022, No. 31);
4. GAMING CONTROL AMENDMENTG (FEES) REGULATIONS 2022 (S.R. 2022, No. 32);
5. WASTE AND RESOURCE RECOVERY REGULATIONS 2022 (S.R. 2022, No. 35) – two briefings provided in relation to these regulations and the Minister for Environment and Climate Change attended one of these briefings;
6. BIOSECURITY REGULATIONS 2022 (S.R. 2022, No. 83);
7. LAND TITLES REGULATIONS 2022 (S.R. 2022, No. 95);
8. REGISTRATION OF DEEDS REGULATIONS 2022 (S.R. 2022, No. 96);
9. CONVEYANCING AND LAW OF PROPERTY REGULATIONS 2022 (S.R. 2022, No. 97);
10. CONVEYANCING AND LAW OF PROPERTY (BUILDING TITLE PLANS) REGULATIONS 2022 (S.R. 2022, No. 98);
11. INTERSTATE TRANSFER (COMMUNITY-BASED SENTENCES) REGULATIONS 2022 (S.R. 2022, No. 107);
12. WORK HEALTH AND SAFETY REGULATIONS 2022 (S.R. 2022, No. 109); and
13. WORK HEALTH AND SAFETY (TRANSITIONAL) REGULATIONS 2022 (S.R. 2022, No. 110).

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 an inquiry to scrutinize regulations in more detail through the inquiry process. The Committee initiated an inquiry into the following regulations as follows.

NATURE CONSERVATION (WILDLIFE) REGULATIONS 2021 (S.R. 2021, No. 93)

On 10 March 2022 the Committee resolved to commence an inquiry into the NATURE CONSERVATION (WILDLIFE) REGULATIONS 2021 (S.R. 2021, No. 93) (the Regulations). The Committee held public hearings on 29 June 2022.

The prorogation of the Parliament occurred twice in the first half of 2022. Due to these prorogations, on 16 August 2022, a holding disallowance motion in the Legislative Council was placed on these Regulations to ensure that the Committee reserved its right to move to disallow the Regulations due to the Committee being unable to complete the inquiry process within the timeframe as provided for under section 47 of the [Acts Interpretation Act 1931](#) in relation to disallowance. This holding disallowance motion was withdrawn on 27 September 2022.

The Regulations were resolved as “examined” on 8 September 2022.

A [Report](#) regarding the Committee’s findings was tabled in the Legislative Council on 27 September 2022 and tabled in the House of Assembly on 29 September 2022.

COMMITTEE MEMBERSHIP

Third Session - Fiftieth Parliament

Legislative Council

Hon Tania Rattray MLC (Chair)
Hon Ruth Forrest MLC *(to 21/03/23)*
Hon Dean Harriss MLC *(from 21/03/2023)*
Hon Leonie Hiscutt MLC

House of Assembly

Ms Janie Finlay MP (Deputy Chair)
Mr Simon Wood MP
Mr Dean Young MP



Date: 17/08/2023

**Hon Tania Rattray MLC
Chair**