



## PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION

### ANNUAL REPORT 2011-2012

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#### INTRODUCTION

The Parliamentary Standing Committee on Subordinate Legislation is a statutory committee of the Tasmanian Parliament. It was established under the *Subordinate Legislation Committee Act 1969*.

The Committee's charter is to examine every regulation, by-law and rule. 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 Subordinate Legislation Committee Act 1969 uses "regulations" as the generic term to cover all subordinate legislation, be it a regulation, a by-law or a rule.

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.

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

## **COMMITTEE ACTIVITY**

### **General Overview**

During 2011-2012 the Committee held twelve (12) meetings and examined sixty seven (67) instruments of subordinate legislation that had been published in the Government Gazette.

As part of the examination of these instruments the Committee requested information from Ministers in relation to regulations imposing significant increases in fees, explanations of some provisions and other issues of concern.

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

- Health (Fees) Amendment Regulations (No. 3) 2011
- Crown Lands Regulations (No. 116) 2011
- Traffic (Compliance and Enforcement) Regulations (No. 121) 2011
- Agricultural and Veterinary Chemicals (Control of Use) Regulations (No. 10) 2012

The briefings provided Members with further details and clarification of specific issues. The Regulations were subsequently passed as ‘Examined’ by the Committee.

The Auditor-General met with the Committee in relation to regulatory impact analysis and the Committee was also briefed by officers from the Department of Treasury and Finance regarding the use in regulations of fee units and dollar amounts.

### **National Conference - July 2011**

The Chair, Deputy Chair, Mr Parkinson, Ms Archer and the Secretary attended the Australia-New Zealand Scrutiny of Legislation Conference held in Brisbane, 26-28 July 2011.

A written report of this Committee’s activities was provided for Conference participants.

The Conference was titled “Legislative Scrutiny in an Era of Convenience” and covered topics such as –

- Scrutiny’s Role in the Rule of Law

- Bones without Flesh – the issues with Skeletal Legislation
- Government Non-profit Contracting and Parliamentary Scrutiny

The Chair presented a paper in Session 9 – When is scrutiny of legislation best undertaken? The paper discussed the timing of the scrutiny of subordinate legislation and in particular provided details of the Private Member's Bill – the Subordinate Legislation (Miscellaneous Amendments) Bill which was introduced by Ms Forrest and passed in the Legislative Council in late 2009 and again after the State election in March 2010.

### **Retirement**

On 19 April 2012, Mr Doug Parkinson attended his last Committee meeting prior to his retirement as a Member of the Legislative Council.

Mr Parkinson was first appointed as a Member of the Parliamentary Standing Committee on Subordinate Legislation in June 1998. He was elected Deputy Chair on 31 May 2001 and Chair on 29 May 2003 until May 2006. Mr Parkinson was again appointed to the Committee in May 2010 and served as a Member until his retirement in May 2012.

The Committee congratulated and thanked Mr Parkinson for his dedication and valuable contribution.

At its meeting on 24 May 2012, the Committee welcomed Mrs Adriana Taylor as the new Member.

### **Regulatory Impact Analysis**

The Committee Chair and Secretary met with representatives of the Productivity Commission on 14 March 2012 to discuss the Commission's study into Regulatory Impact Analysis: Benchmarking. The Committee subsequently agreed to provide a submission to the study.

The Committee's submission raised several concerns regarding areas in the Productivity Commission's Issues Paper considered relevant to its jurisdiction. In particular, the frequent provision of exemptions from the requirement of regulatory impact analysis, was highlighted.

Following on from the Committee's submission, the Chair wrote to the Treasurer requesting that further information be provided when exemptions relating to RIA are granted by the Secretary of the Department of Treasury and Finance.

## **MEETING ATTENDANCE RECORD**

	<b>Forrest</b>	<b>Parkinson</b>	<b>Ratray</b>	<b>Archer</b>	<b>Sturges</b>	<b>Morris</b>
1 September	✓	✓	✓	✓	✓	✓
22 September	✓	✓	✓	✓	✓	✓
29 September	✓	✓	✓	✓	✓	✓
27 October	✓	✓	✓	✓	✓	✓
24 November	✓	✓	✓	✓	✓	✓
7 December	✓	✓	✓	x	✓	✓
15 March	✓	✓	✓	✓	✓	✓
29 March	✓	✓	✓	✓	✓	✓
19 April	✓	✓	✓	✓	✓	✓
9 May	✓	Retired x	✓	✓	✓	✓
	<b>Forrest</b>	<b>Taylor</b>	<b>Ratray</b>	<b>Archer</b>	<b>Sturges</b>	<b>Morris</b>
24 May	✓	✓	✓	✓	✓	✓
21 June	✓	✓	✓	✓	✓	✓

**Hon Ruth Forrest MLC  
Chair**

**28 August 2012**