



PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION

ANNUAL REPORT 2018-2019

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 the reporting period of the First Session - Forty-Ninth Parliament the Committee held a total of seven (7) meetings. The Committee examined forty nine (49) instruments of subordinate legislation that had been published in the Government Gazette.

The Parliament was prorogued 26 February 2019.

During the reporting period of the Second Session - Forty-Ninth Parliament the Committee held a total of two (2) meetings. The Committee examined twenty five (25) 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 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.

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

- ◆ FISHERIES (MARINE PLANT) RULES 2017 (S.R. 2017, No. 57)
- ◆ FISHERIES AMENDMENT RULES 2017 (S.R. 2017, No. 58)
- ◆ FISHERIES (GENERAL AND FEES) AMENDMENT REGULATIONS (No. 2) 20187 (S.R. 2017, No. 60)
- ◆ FISHERIES (GENERAL AND FEES) AMENDMENT REGULATIONS (No. 3) 2017 (S.R. 2017, No. 61)
- ◆ FISHERIES (ABALONE) RULES 2017 (S.R. 2017, No. 94)
- ◆ FISHERIES (GENERAL AND FEES) AMENDMENT REGULATIONS (No. 4) 2017 (S.R. 2017, No. 96)
- ◆ PUBLIC HEALTH (TOBACCO SELLER'S LICENCE) AMENDMENT REGULATIONS 2017 (S.R. 2017, No. 92)
- ◆ PUBLIC HEALTH (INFRINGEMENT NOTICES) AMENDMENT REGULATIONS 2017 (S.R. 2017, No. 108)
- ◆ MINERAL RESOURCES AMENDMENT REGULATIONS 2018 (S.R. 2018, No. 20)
- ◆ LAND USE PLANNING AND APPROVALS AMENDMENT REGULATIONS 2018 (S.R. 2018, No. 52)
- ◆ VEHICLE AND TRAFFIC (VEHICLE STANDARDS) AMENDMENT REGULATIONS 2018 (S.R. 20189, No. 61)
- ◆ VEHICLE AND TRAFFIC (VEHICLE OPERATIONS) AMENDMENT REGULATIONS 2018 (S.R. 20189, No. 62)
- ◆ TRAFFIC (COMPLIANCE AND ENFORCEMENT) AMENDMENT REGULATIONS 2018 (S.R. 20189, No. 63)
- ◆ POISONS REGULATIONS 2018 (S.R. 2018, No. 79)
- ◆ POISONS (APPLICATION OF UNIFORM STANDARD) ORDER (S.R. 2018, No. 90)
- ◆ CLARENCE CITY COUNCIL PUBLIC PLACES BY-LAW (No. 1 of 2018)

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

PUBLIC HEALTH (INFRINGEMENT NOTICES) AMENDMENT REGULATIONS 2017 (S.R. 2017, No. 108)

On 24 August 2018 the Department of Health briefed the Committee regarding these Regulations.

Regulations were resolved as "examined" on 24 August 2018.

A Report regarding the Committee's findings was Tabled in both Houses of Parliament on 25 September 2018.

Provision of Documentation in accordance with Statutory Provisions

The Committee has continued to encounter difficulties at times in obtaining documentation, including relevant certificates from some Departments and Local Government Authorities, in accordance with relevant statutory provisions. As a result of these difficulties, the Committee has experienced unreasonable delays on occasion in fulfilling its statutory functions in accordance with section 8 of the *Subordinate Legislation Committee Act 1969*. These difficulties have been outlined in previous Annual Reports of the Committee.

A meeting was convened with the Premier during the reporting period to formally discuss these concerns. Whilst improvement has been noted by some Departments, there appears to remain a general lack of training, support and knowledge within certain Agencies regarding the process for the making of statutory rules. Whilst the Office of Parliamentary Counsel has published a Manual for the Preparation of Statutory Rules, it is evident to the Committee that this Manual is not utilized consistently by Departmental Officers as should be the case.

MEETING ATTENDANCE RECORD

Committee Membership – First Session Forty Ninth Parliament

Legislative Council

Hon Craig Farrell

Hon Tania Rattray (Chair)

Hon Rob Valentine (Deputy Chair)

House of Assembly

Mr Brooks

Mr Shelton

Ms Standen

Committee Attendance

	Farrell	Forrest	Rattray	Brooks	Shelton	Standen
23 August	✓	✓	✓	✓	✓	✓
24 August	✓	✓	✓	X	✓	✓
30 August	✓	✓	✓	✓	X	✓
20 September	✓	✓	✓	✓	✓	✓
27 September	✓	✓	✓	✓	✓	✓
22 November	✓	✓	✓	X	✓	✓
29 November	✓	✓	✓	X	✓	✓

Committee Membership – Second Session Forty Ninth Parliament

Legislative Council

Hon Craig Farrell (*resigned 21 May 2019*)

Hon Ruth Forrest (Deputy Chair)

Hon Tania Rattray (Chair)

Hon Meg Webb (*appointed 28 May 2019*)

House of Assembly

Mr Mark Shelton

Ms Alison Standen

Mr John Tucker

Committee Attendance

	Farrell	Forrest	Rattray	Webb	Shelton	Standen	Tucker
11April	✓	✓	✓	N/A	✓	✓	✓
30 May	N/A	✓	✓	✓	✓	✓	✓

**Hon Tania Rattray MLC
Chair**



Date: 17 October 2019