



# PARLIAMENTARY STANDING COMMITTEE ON SUBORDINATE LEGISLATION

## ANNUAL REPORT 2017-2018

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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 the reporting period of the Forty-Eighth Parliament the Committee held a total of six (6) meetings. The Committee examined thirty nine (39) instruments of subordinate legislation which had been published in the Government Gazette.

The Parliament was prorogued on 28 January 2018 due to the 2018 Tasmanian State Election and as a result, did not meet again until after the commencement of the new Parliament.

During the reporting period of the Forty-Ninth Parliament the Committee held a total of two (2) meetings. The Committee examined twenty nine (29) 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 (Abalone) Amendment Rules 2017 (S.R. 2017, No. 12)
- ◆ Fisheries (General and Fees) Amendment Regulations 2017 (S.R. 2017, No. 13)
- ◆ Property Agents and Land Transactions Regulations 2017 (S.R. 2017, No. 16)
- ◆ Vehicle and Traffic (Heavy Vehicle Charges) Regulations 2017 (S.R. 2017, No. 24)
- ◆ Forest Practices Regulations 2017 (S.R. 2017, No. 21)
- ◆ Status of Children (Parentage Testing) Regulations 2017 (S.R. 2017, No. 37)
- ◆ Marine and Safety (Pilotage and Navigation) Regulations 2017 (S.R. 2017, No. 44)
- ◆ Marine and Safety (Infringement Notices) Amendment Regulations 2017 (S.R. 2017, No. 46)

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

## **Firearms Amendment Regulations 2017 (S.R. 2017, No. 51)**

Public Hearings 3/11/17 from the following witnesses —

- Tasmanian Farmers and Graziers Association
- Arms Collectors Guild of Tasmania
- Sporting Shooters Association of Australia (Tasmania)
- Glenn and Cheryl Arnol

Public Hearing 16/11/17 —

- The Hon Rene Hidding MP, Minister for Police, Fire and Emergency Management

Regulations were resolved as “examined” on 16/11/17.

A Report regarding the Committee’s findings was Tabled in both Houses of Parliament on 30/11/17.

### **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*.

In the previous financial year, the Chair wrote to the Premier on 27 September 2016 seeking his assistance to resolve the issue. The Premier confirmed by correspondence of 14 November 2016 that he had instructed Departments to comply with their statutory obligations. Whilst some initial improvement was noted subsequent to the matter being raised with the Premier, difficulties remain with some Departments continuing not to comply with statutory requirements in the preparation of statutory rules.

## **MEETING ATTENDANCE RECORD**

### **Committee Membership – Forty Eighth Parliament**

#### **Legislative Council**

Hon Craig Farrell  
Hon Tania Rattray (Chair)  
Hon Rob Valentine (Deputy Chair)

#### **House of Assembly**

Mr Roger Jaensch  
Ms Madeleine Ogilvie  
Mr Nic Street

### **Committee Attendance**

|              | <b>Farrell</b> | <b>Rattray</b> | <b>Valentine</b> | <b>Jaensch</b> | <b>Ogilvie</b> | <b>Street</b> |
|--------------|----------------|----------------|------------------|----------------|----------------|---------------|
| 17 August    | ✓              | ✓              | ✓                | ✓              | ✓              | ✓             |
| 21 September | ✓              | ✓              | ✓                | ✓              | ✓              | ✓             |
| 19 October   | ✓              | ✓              | ✓                | ✓              | ✓              | ✓             |
| 3 November   | ✓              | ✓              | ✓                | X              | X              | ✓             |
| 16 November  | ✓              | ✓              | ✓                | ✓              | ✓              | ✓             |

|             |   |   |   |   |   |   |
|-------------|---|---|---|---|---|---|
| 30 November | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
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### **Committee Membership – Forty Ninth Parliament**

#### **Legislative Council**

Hon Craig Farrell  
Hon Ruth Forrest (Deputy Chair)  
Hon Tania Rattray (Chair)

#### **House of Assembly**

Mr Adam Brooks  
Mr Mark Shelton  
Ms Alison Standen

### **Committee Attendance**

|         | Farrell | Forrest | Rattray | Brooks | Shelton | Standen |
|---------|---------|---------|---------|--------|---------|---------|
| 14 June | ✓       | ✓       | ✓       | ✓      | ✓       | ✓       |
| 21 June | ✓       | ✓       | ✓       | ✓      | ✓       | ✓       |

**Hon Tania Rattray MLC  
Chair**



**20 September 2018**