

## ***Subordinate Legislation (Miscellaneous Amendments) Bill 2009***

### **Fact Sheet**

The Bill will enable scrutiny or examination of any draft regulations by the Subordinate Legislation Committee prior to Gazettal and therefore prior to the regulations becoming operational. This will address the problems experienced when a decision to disallow regulations or rules under legislation currently in force, occurs many months after the regulations have become operational, potentially leading to other groups or individuals being adversely impacted by disallowance of regulations that have been operational for some time.

The Bill will enable the examination of draft regulations by the Subordinate Legislation Committee after the relevant Department has carried out the usual processes for the preparation of regulations, prior to them being sent to the Governor for approval, confirmation or consent, and the subsequent gazettal and commencement of the regulations.

The Bill provides that if the Subordinate Legislation Committee considers, after examining any draft regulation, that it does not comply with the provisions of the Act, a report will be tabled in both Houses of Parliament and provided to the responsible Minister to that effect. Regulations that are substantially the same can be remade and referred back to the Committee for examination.

Clause 9A of the Bill does provide for the Treasurer to override the decision of the Subordinate Legislation Committee. If the draft regulations, containing substantially similar provisions, have been examined twice by the Committee over a period of three months and have been found to not conform with the guidelines contained in the Act and if the Solicitor-General certifies in writing that the third draft contains substantially similar

provisions to the previous drafts, the Treasurer may, if satisfied that the public interest requires that the subordinate legislation be made without delay, declare by order that the regulations be made and that section 9 of the Bill will not apply.

A disallowance motion could be put to the Parliament by any Member if this occurs and then be decided by the Parliament. Prior to this, two reports from the Subordinate Legislation Committee would have previously been tabled providing details of the noncompliance of the regulations when examined by the Committee.

The Bill does not alter the scope of the Subordinate Legislation Committee's examination from that contained in the existing Act with the exception of the removal of the provisions of sections 8 (1) and 9(1) of the current Act that provide that the Treasurer by notice published in the *Gazette*, may declare an instrument of a legislative character that is made under the authority of an Act to be subordinate legislation for the purposes of this Act. These have been removed as any notice issued by the Treasurer that deems any other legislative instrument to be subordinate legislation for the purposes of this Act, other than those instruments already defined as such in section 3, should be of such significance that examination by the Committee is warranted.

The Bill also amends section 47 of the Acts Interpretation Act. Currently there is no penalty for late tabling of regulations. These amendments will impose a sanction if regulations are not tabled in each House of Parliament within the prescribed period such that the regulations will cease to have any effect after that period. A sanction such as this currently exists in some other jurisdictions and has resulted in consistently timely tabling of regulations.

The Bill contains a number of transitional and other amendments to the Subordinate Legislation Committee Act 1969. This Act has aged over time and is gender specific. All references to specific gender have been removed.