



JOINT STANDING COMMITTEE ON SUBORDINATE LEGISLATION

ANNUAL REPORT 2008-2009

INTRODUCTION

The Joint 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 2008-2009 the Committee held 11 meetings and examined 99 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, retrospective provisions and other issues of concern.

The Committee also wrote to the Treasurer acknowledging the assistance from the Minister for Health in providing a fact sheet which summarized particular regulations being examined, and requesting that consideration be given to all Ministers providing similar information for all subordinate legislation.

Fisheries (Scalefish) Amendment Rules 2008

A disallowance motion was moved in the Legislative Council on Tuesday, 26 May 2009 in relation to the Fisheries (Scalefish) Amendment Rules 2008.

The Committee received written and verbal evidence from several fishermen and the Department of Primary Industries and Water relating to the above Rules.

The Committee understood the importance of maintaining a sustainable fishery and that it should be the basis for any regulation of the industry. It was also noted that the consultation had been broad and ongoing from 2000 for the banded morwong fishery and from 2003 for calamari.

It was further acknowledged that these Rules have been operational since 1 October 2008 and that any contrary decision could have a negative impact on other fishermen.

The Committee believed, however, that there were fishermen who may be disadvantaged by the sections in the Rules that preclude exceptional circumstances being taken into account. Several examples were given to the Committee that demonstrated special reasons why it was not possible for the required catch history to be achieved.

For these reasons, the Committee recommended that provision be made in the Rules for exceptional circumstances to be considered by an independent appeal process and accordingly reported to the Parliament that sections of these Rules “unduly trespass on personal rights and liberties”.

The motion passed in the affirmative.

MEETING ATTENDANCE RECORD

	Forrest	Jamieson	Thorp	Hidding	Singh	Green
28 August	✓	✓	✓	✓	✓	x
	Forrest	Jamieson	Rattray-Wagner	Rockliff	Singh	Green
29 October	✓	✓	✓	✓	✓	✓
30 October	✓	✓	✓	✓	✓	✓
13 November	✓	✓	✓	✓	✓	✓
20 November	✓	✓	✓	x	x	✓
	Forrest	Jamieson	Rattray-Wagner	Rockliff	Butler	Green
12 March	✓	✓	✓	✓	✓	✓
26 March	✓	✓(T)	✓	✓	✓	✓
6 April	✓	✓	✓(T)	✓(T)	✓	✓(T)
	Forrest	Martin	Rattray-Wagner	Rockliff	Butler	Green
21 May	✓	x	✓	x	✓	✓
28 May	✓	x	✓	✓	✓	x
18 June	✓	x	✓	✓	✓	✓

Hon Ruth Forrest MLC
Chair