



SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

55th Parliament
Annual Review
2004

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**Scrutiny of Acts and Regulations
Committee**

Annual Review 2004

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Scrutiny of Acts and Regulations Committee

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**EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS OF THE
LEGISLATIVE COUNCIL**

Thursday, 27 March 2003

- 2 PARLIAMENTARY COMMITTEES** — Mr Lenders moved, by leave—
- (1) **SCRUTINY OF ACTS AND REGULATIONS COMMITTEE** — That the Honourables Lidia Argondizzo and Andrew Olexander be members of the Scrutiny of Acts and Regulations Committee.

Question — put and resolved in the affirmative.

Tuesday, 14 September 2004

- 15 SCRUTINY OF ACTS AND REGULATIONS COMMITTEE** — Mr John Lenders moved, by leave, That the Honourable Andrew Brideson be a member of the Scrutiny of Acts and Regulations Committee.

Question — put and resolved in the affirmative.

**EXTRACTED FROM THE VOTES AND PROCEEDINGS OF THE
LEGISLATIVE ASSEMBLY**

Wednesday, 26 March 2003

- 7 JOINT INVESTIGATORY COMMITTEES** — Motion made, by leave, and question — That —

(6) Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson be members of the **Scrutiny of Acts and Regulations Committee**.

(Mr Batchelor) — put and agreed to.

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Terms of Reference

Section 17 of the *Parliamentary Committees Act 2003* sets out the statutory functions of the Scrutiny of Acts and Regulations Committee. These functions are –

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly–
 - (i) trespasses unduly upon rights or freedoms;
 - (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
 - (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
 - (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *Information Privacy Act 2000*;
 - (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
 - (vi) inappropriately delegates legislative power;
 - (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny;
- (b) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament –
 - (i) as to whether the Bill directly or indirectly repeals, alters or varies section 85 of the *Constitution Act 1975*, or raises an issue as to the jurisdiction of the Supreme Court;
 - (ii) if a Bill repeals, alters or varies section 85 of the *Constitution Act 1975*, whether this is in all the circumstances appropriate and desirable;
 - (iii) if a Bill does not repeal, alter or vary section 85 of the *Constitution Act 1975*, but where an issue is raised as to the jurisdiction of the Supreme Court, as to the full implications of that issue;
- (c) to consider any Act that was not considered under paragraph (a) or (b) within 30 days immediately after the first appointment of members of the current Committee and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (g) to review any Act in accordance with the terms of reference under which the Act is referred to the Committee under this Act.

Chairperson's Introduction

I am pleased to introduce the Scrutiny of Acts and Regulations Committee's Annual Review covering the calendar year 2004.

In brief the functions of the Committee are to review all bills introduced into Parliament, to review regulations, to review and report on redundant or unclear Acts and to undertake specific inquiries referred to the Committee either by the Parliament or by a Minister.

The Committee has been fortunate to have a dedicated and professional secretariat staff and I take this opportunity to thank our Senior Legal Adviser, Andrew Homer for effectively leading our team during 2004. The Committee is also indebted to Ms Helen Mason for her experienced guidance in the scrutiny of regulations and Simon Dinsbergs and Sonya Caruana for their efficient management and administrative support during the year.

Lily D'Ambrosio MP
Chairperson

Section 35 (b)(iv) of the *Interpretation of Legislation Act 1984* provides –

In the interpretation of a provision of an Act or subordinate instrument consideration may be given to any matter or document that is relevant including, but not limited to, reports of Parliamentary Committees.



Scrutiny of Acts
and Regulations Committee

ROLE OF THE COMMITTEE

The Scrutiny of Acts and Regulations Committee is an all-party Joint House Committee which examines all Bills and subordinate legislation (regulations) presented to the Parliament. The Committee does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of non-partisan legislative scrutiny. These traditions have been developed since the first Australian scrutiny of bills committee of the Australian Senate commenced operation in 1982. They are precedents and traditions followed by all Australian scrutiny committees. Non-policy scrutiny within its terms of reference allows the Committee to alert the Parliament to the use of certain legislative practices and allows the Parliament to consider whether these practices are necessary, appropriate or desirable in all the circumstances.

Annual Review 2004

The Annual Review

The review provides a summary of the Scrutiny of Acts and Regulations Committee's ('the Committee') work in the scrutiny of Bills and outlines its other statutory reporting and inquiry functions during calendar 2004. There are two useful publications that further describe the Committee's work and activities during 2004, the Annual Review of Statutory Rules considered in 2004ⁱ and the cumulative Alert Digest of 2004ⁱⁱ concerning the scrutiny of Bills introduced in the Parliament. The Committee's Alert Digests and all other inquiry reports and discussion papers are available on the Committee's Website.

The Committee

The Committee is established under the *Parliamentary Committees Act 2003*ⁱⁱⁱ ("the Act") as one of the 11 Joint House Committees of the Victorian Parliament and is one of 5 Joint House Committees administered by the Department of the Legislative Assembly. The remaining 6 Joint House Committees are administered by the Department of the Legislative Council. The membership of the Committee is drawn from members elected to the Legislative Council and the Legislative Assembly from both government and opposition members.

Brief history of the Committee

The Committee under its current name and functions was established at the commencement on the 52nd Parliament in November 1992. Mr Victor Perton MLA (LP - Doncaster) became the Committee's first Chairman. Following the March 1996 State election the Committee was reconstituted for the 53rd Parliament with Mr Peter Ryan MLA (NP - Gippsland South) as Chairman. The 53rd Parliament was dissolved in August 1999. The Committee of the 54th Parliament was reconstituted on 15 December 1999 with Ms Mary Gillett MLA (ALP - Werribee) elected Chair of the Committee. From March 2003 the Chair of the Committee in the 55th Parliament is Ms Lily D'Ambrosio MLA (ALP - Mill Park).

Prior to the Committee in its present form, the Parliament did perform a scrutiny of subordinate legislation function through the former Legal and Constitutional Committee. Scrutiny of Bills commenced in March 1993.

Other jurisdictions which have parliamentary committees with a scrutiny of bills function are the Parliaments of the Commonwealth, New South Wales, Queensland and the Australian Capital Territory. All Australian jurisdictions have some form of scrutiny of subordinate legislation (regulations/ordinances).

Committee composition and membership

The Act^{iv} requires that the Committee must be composed of not more than nine members of whom at least two must be members of the Legislative Council and two must be members of the Legislative Assembly.

The Committee of the 55th Parliament consists of nine members. Seven members are from the Legislative Assembly and two members from the Legislative Council. As in the Committees established in the previous Parliaments, five of the nine members are from the government and four from the opposition.

Committee members during 2004

The members of the Committee during 2004 were –

- Ms Lily D’Ambrosio MLA (Chairperson)
- Mr Murray Thompson MLA (Deputy Chairperson)
- The Hon. Lidia Argondizzo MLC
- The Hon. Andrew Brideson MLC*
- Mr Ken Jasper MLA
- Mr Michael Leighton MLA
- Mr Peter Lockwood MLA
- Mr Andrew McIntosh MLA
- The Hon. Andrew Olexander MLC**
- Mr Jude Perera MLA

* From 14 September 2004; ** Up until 14 September 2004.

The Subcommittees

As in previous Parliaments, by resolution in April 2003 the Committee re-established the Regulation Review Subcommittee and the Redundant Legislation Subcommittee. The Committee also established subcommittees to handle the other inquiry work of the Committee.

Regulation Review Subcommittee

Functions

The functions of the Subcommittee are to review statutory rules, as defined by the *Subordinate Legislation Act 1994*, against specified terms of reference specified in that Act.^v Pursuant to other statutory reporting responsibilities the Subcommittee must review other specified subordinate instruments. During the term of the 54th Parliament the Committee completed a major review of the *Subordinate Legislation Act 1994*. The report on that inquiry was tabled in September 2002. To date no new legislation has been introduced giving effect to the recommendations made by the Committee that have been accepted by the government.

During 2004 the members of the Regulation Review Subcommittee were –

- Mr Peter Lockwood MLA, (Chairperson)

- Ms Lily D'Ambrosio MLA
- The Hon. Andrew Brideson MLC*
- Mr Ken Jasper MLA
- The Hon. Andrew Olexander MLC**
- Mr Jude Perera MLA

* From 4 October 2004; ** Up until 14 September 2004.

Redundant Legislation Subcommittee

Functions

The Subcommittee operates under a long standing Governor in Council reference to; review and make recommendations concerning Acts of Parliament or legislative instruments that are unclear, ambiguous or should be redrafted; reduce the number and complexity of Acts and legislative instruments; and ensure that Acts and instruments are clearly expressed in accordance with modern drafting practices.

The terms of reference of this on-going inquiry are shown in **Appendix 6**.

The Members of the Redundant Legislation Subcommittee during 2004 were –

- Mr Murray Thompson MLA (Chairperson)
- Ms Lily D'Ambrosio MLA
- The Hon. Lidia Argondizzo MLC
- Mr Michael Leighton MLA
- Mr Andrew McIntosh MLA

Other Subcommittees

By resolution the Committee has established two additional subcommittees. The Equal Opportunity Subcommittee was established to undertake the inquiry pursuant to section 207 of the *Equal Opportunity Act 1995* and the E-Democracy Subcommittee to undertake an inquiry concerning electronic media and its future use and implications in respect to participatory democracy.

Equal Opportunity Subcommittee

Function

To undertake a review pursuant to section 207 of the *Equal Opportunity Act 1995* in respect to discrimination in the law (Victorian enactments other than Council by-laws or local laws). The terms of reference of the inquiry are shown in **Appendix 7**.

The Committee resolved that this inquiry should be undertaken by the Subcommittee comprising all Members of the Committee.

E-Democracy Subcommittee

The Subcommittee was first constituted in February 2002 to undertake a reference concerning Electronic Democracy. The terms of reference of this wide ranging inquiry are shown in

Appendix 8. Whilst the Committee released a discussion paper and 9 discussion sheets during the later half of 2002 the inquiry remained incomplete at the time of the dissolution of the 54th Parliament in November 2002. The Subcommittee expects to complete its work by March 2005 and table a final report in April 2005.

The Committee of the 55th Parliament re-established the Subcommittee in March 2003. The Members of the Subcommittee during 2004 were –

- Mr Michael Leighton MLA (Chairperson)
- The Hon. Lidia Argondizzo MLC
- The Hon. Andrew Brideson MLC*
- Mr Peter Lockwood MLA
- The Hon. Andrew Olexander MLC**
- Mr Jude Perera MLA
- Mr Murray Thompson MLA

* From 4 October 2004, ** Up until 14 September 2004.

E-Democracy Overseas Mission

In furtherance of the objectives of the E-Democracy inquiry the Subcommittee undertook an overseas mission to the United States of America and Canada from 2 to 17 August 2004. The mission members comprised the Chair of the inquiry Mr Michael Leighton MP and Mr Jude Perera MP, Dr Peter Chen (E-Democracy consultant) and the Executive Officer Mr Andrew Homer. The Committee has published a detailed report on the evidence obtained during the mission.^{vi}

Secretariat and Consultants

Staffing

The Committee employs a small secretariat staff comprising an Executive Officer (Senior Legal Adviser) a Legal Adviser (Regulations) and two administrative support staff. The staffing of the Committee during 2004 was –

- Mr Andrew Homer, Executive Officer and Senior Legal Adviser;
- Mr Simon Dinsbergs, Assistant Executive Officer;
- Ms Helen Mason, Legal Adviser (Regulations);
- Ms Sonya Caruana, Office Manager.

The Committee secretariat is located at Level 8, 35 Spring Street Melbourne.

External consultants

The Committee engaged a number of consultants to undertake specialist work on inquiries handled by the Committee. During 2004 the consultants engaged by the Committee were –

- Ms Dominique Saunders, Review pursuant to section 207 of the *Equal Opportunity Act 1995*.
- Dr David Blumenthal, Review of the *Perpetuities and Accumulations Act 1968*.

- Mr Michael Magazanik, Review of the *Maintenance Act 1965* and the *Marriage Act 1958*.
- Dr Peter Chen, Inquiry into Electronic Democracy.

The Work of the Committee

The Committee –

- prepares periodical reports called Alert Digests in respect to Bills introduced during Parliamentary sessions;
- reviews all statutory rules and some other statutory instruments;
- seeks clarification from Ministers, departments or government agencies on provisions contained in Bills and statutory rules that concern the Committee within its terms of reference;
- conducts inquiries, including calling for public submissions and conducting public hearings, on Acts and other matters referred to the Committee for investigation;
- provides information to Members, organisations and the public concerning the Committee's functions and activities.

The Committee's work during 2004

The Committee's work during 2004 fell into four main areas –

- Scrutiny of Bills introduced into Parliament;^{vii}
- Scrutiny of subordinate legislation^{viii} (statutory rules) and specified directives^{ix} and other instruments (Refer also to the *Subordinate Legislation Act 1994*, section 21 and the *Public Sector Management and Employment Act 1998*, section 40(2));
- Review of redundant, ambiguous or unclear legislation. This function is performed pursuant to an ongoing standing instruction to the Committee first vested in the Committee in May 1994 by a Governor in Council Reference. The Reference has been renewed at the commencement of each Parliament and continues during the life of the Parliament unless revoked by Governor in Council Order. (*Refer: Governor in Council Order 12 May 1994 – Victorian Government Gazette (G.19), Page 1153, May 1994*); and
- Review of other legislation that is referred to the Committee by a resolution of either the Legislative Council or the Legislative Assembly^x or by a Minister through an Order of the Governor in Council published in the Government Gazette^{xi}.

Section 17(a) – Scrutiny of Bills

The Committee considered 121 Bills during 2004. Pursuant to section 17(a) the Committee is required to consider any Bill introduced in the Council or the Assembly and report to the Parliament under 7 separate heads of scrutiny numbered sub-paragraphs (i) to (vii) –

- (i) trespasses unduly upon rights or freedoms;
- (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
- (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;

- (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *Information Privacy Act 2000*;
- (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
- (vi) inappropriately delegates legislative power;
- (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny;

A list of the Bills considered by the Committee during 2004 and the tabling dates of the 11 separate Alert Digests in which they are found is shown in **Appendix 1**. The Bills on which the Committee made a substantive comment based on the respective scrutiny principles is shown in **Appendix 2**.

Problematic areas with Bills by terms of reference

(i) – trespasses unduly on rights and freedoms.

- ***Common law rights*** – during the year the Committee made comments in respect to a number of significant Bills where potential rights and freedoms issues were raised. The most significant of these Bills were the–
 - *Major Crime (Investigative Powers) Bill – Alert No. 9*
 - *Major Crime Legislation (Seizure of Assets) Bill – Alert No. 9*

At time of writing the Committee had received a partial response in respect to the first listed Bill from a Minister administering part of the legislation.

The Committee examined a number of Bills containing provisions that partially abrogated or modified the privilege against self-incrimination. In 2004 there were no instances where the Committee considered the modification to the privilege was unreasonable having regard to the competing public policy sought to be achieved by the legislation necessitating the modification. In most cases the modification related to the requirement that documents were to be provided by persons notwithstanding their tendency to incriminate the person compelled to produce them. In most cases the documents are required to be kept as business, or other records pursuant to the relevant legislation.

- ***Retrospective provisions*** – failure to provide sufficient information in either the explanatory memorandum or the Second Reading Speech concerning the necessity or desirability of applying a law retrospectively has traditionally been a problematic area for the Committee. Once again the Committee encountered instances where the retrospective provision was necessary or desirable in all the circumstances but this only became apparent after correspondence with the relevant Minister.

Acceptable retrospective provisions include those that provide a benefit or incentive to persons and where an amendment takes the form of a minor statute law revision correcting inadvertent omissions or errors that have no appreciable adverse consequence to persons or where legislation validates past actions, that as a consequence of legal proceedings or otherwise, appear vulnerable to legal challenge as a result of an unintended deficiency in the original legislation. In such circumstances the amendments may seek to clarify the position that had always thought to have existed but for the deficiency. The retrospective legislation may also declare that

actions taken or appointments made, were lawfully done or made as though the Act had always been in the form as ultimately amended.

During the year the Committee reported on three retrospective provisions that the Committee considered may trespass rights and freedoms. These were in respect to the *Domestic Building Contracts (Amendment) Bill*, the *Parliamentary Superannuation Legislation (Reform) Bill* and the *Victorian Civil and Administrative Tribunal (Amendment) Bill*. In respect to the first two Bills mentioned the relevant Ministers provided answers to the Committee's request to clarify the intended application of these retrospective laws, respectively in Alert Digests 6 and 11 of 2004. In respect to the last of the Bills listed the Committee has not received an answer at time of publication.

- (ii) – *makes rights, freedoms or obligations dependant upon insufficiently defined administrative powers.*

Undefined or wide delegation provisions – failure to explain delegation provisions which do not clearly define or limit the extent of the delegation to a defined group of persons or persons holding a specified office or rank, or possessing some qualification or attribute. During 2004 there were a number of cases identified where the Committee commented on the use of such provisions and where the Committee wrote to the relevant Ministers to clarify the need to use widely defined delegation powers in a number of Acts. In each instance identified by the Committee the relevant Minister gave further information to the Committee concerning the desirability and need for such wide delegation provisions. The Committee did comment adversely as to the adequacy of an explanatory memorandum concerning two delegation provisions (see above).

- (iii) – *makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions.*

The Committee did not identify any Bills under this term of reference during 2004.

- (iv) – *unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the Information Privacy Act 2000.*

The Victorian Privacy Commissioner made a number of submissions in the course of the year and in each instance the submission was reproduced as an appendix to the relevant Alert Digest. In a number of Bills the Committee drew attention to the Commissioner's concerns and referred certain issues to the Minister responsible for the Bill.

- (v) – *unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the Health Records Act 2001.*

The Committee did not identify any Bills under this term of reference during 2004.

- (vi) – *inappropriately delegates legislative power.*

- **Power to legislate by regulation** – The Committee commented in respect to two Bills concerning the content of primary legislation that may permit regulations to be made that are more appropriately to be reserved for powers in primary legislation. The Bills were the *Monetary Units Bill* and the *Safety on Public Land Bill*.

- ***Unexplained commencement by proclamation clauses*** – Failure to provide adequate explanation for the use of a commencement by proclamation clause rather than the use of a specified commencement day, a forced commencement day. In 2004, as in the previous year, there were no cases of commencement by proclamation clauses that were unexplained or where it was explained but the Committee considered the provision to be unjustified.
- ***Long delay in commencement provisions*** – In 2004 there was one instance in the *Sustainable Forests (Timber) Bill* where there was provision for a considerably delayed commencement (in excess of two years) and where there was no information in either the explanatory memorandum or second reading speech concerning the necessity to provide such a lengthy delay in commencing the Act. This was later clarified by the Minister as being desirable because of the need for the industry to adapt to the implications of the new licensing regime introduced by the legislation.

(vii) – insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

- ***Unhelpful explanatory memorandum*** – Failure to provide adequate detail in the explanatory memorandum or the second reading speech as to the intended operation of a clause. As in the two previous years the Committee saw a marked improvement in explanatory memoranda attached to Bills. The Committee reported in only two instances during 2004 of inadequate explanatory memoranda in respect to the delegation provision in the *Occupational Health and Safety Bill* (Alert Digest 11 of 2004) and in respect to a delegation provision in the *Road Management Bill* (Alert Digest 2 of 2004). In both instances the Committee reported the apparent deficiencies to the relevant Minister.
- ***Parliamentary scrutiny*** – In respect to the inability for Parliament or the Committee to scrutinise a code of practice the Committee sought further clarification in respect to the provisions in the *Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill*.

Section 17(b) – Scrutiny of Bills – Section 85, Constitution Act 1975

Pursuant to section 17(b) of the *Parliamentary Committees Act 2003*, the Committee has a ‘specific reporting’ brief in relation to Bills containing any provision which repeals, alters or varies the jurisdiction of the Supreme Court (section 85 of the *Constitution Act 1975*). The Committee is required to report to the Parliament on the desirability and appropriateness of such provisions.

Of the 121 Bills considered in 2004, 17 contained a section 85 *Constitution Act 1975* provision (14%). In 2003 of the 106 Bills introduced 19 contained section 85 provisions, (18%). The Bills in 2004 containing section 85 provisions are listed in **Appendix 2**.

Ministerial correspondence related to Bills

Ministerial response turnaround time continues to vary markedly with some Ministers responding to the Committee’s correspondence within days. On rare occasions the Committee needs to follow-up requests for further advice by reminder letters. Overall in the course of 2004 the Committee was once again pleased with the response time and the level of detail provided by Ministers to the Committee’s concerns. There were a number of Bills where Ministers had not responded to the Committee’s concerns in the period covered by this report. In some instances Ministerial responses will be included in the first Alert Digest of 2005. A table of Ministerial correspondence is shown in **Appendix 3**.

The results of the Committee's work

The main function of the Committee is to advise the Parliament on the use of certain legislative practices in Bills introduced into the Parliament. Those legislative practices are listed in section 17(a)(i) to (vii) of the *Parliamentary Committees Act 2003* and provide the basis for the Committee's terms of reference. The clear feedback the Committee receives is that Members are assisted by the Alert Digests tabled in Parliament by the Committee.

Whilst the Committee has no sanction to oppose objectionable legislative practices its reports can be persuasive in advocating modifications to legislation by Ministers. Where no change is made the Committee's work illicit further information from Ministers which are published in a report tabled in the Parliament for the benefit of Members and the public record.

The Committee considers that the fostering of a 'scrutiny culture' ensures that legislative standards remain high and are only breached when they are explained by the executive and then only in appropriate circumstances.

There is strong anecdotal evidence to suggest that the work of the Committee is understood and considered by departments and government agencies when considering potentially objectionable legislative provisions.

Statistical summary of Bills considered by the Committee from 2000 to 2004

Table 1 – Number of Bills considered by the Committee and of those the number having section 85 Constitution Act 1975 provisions.

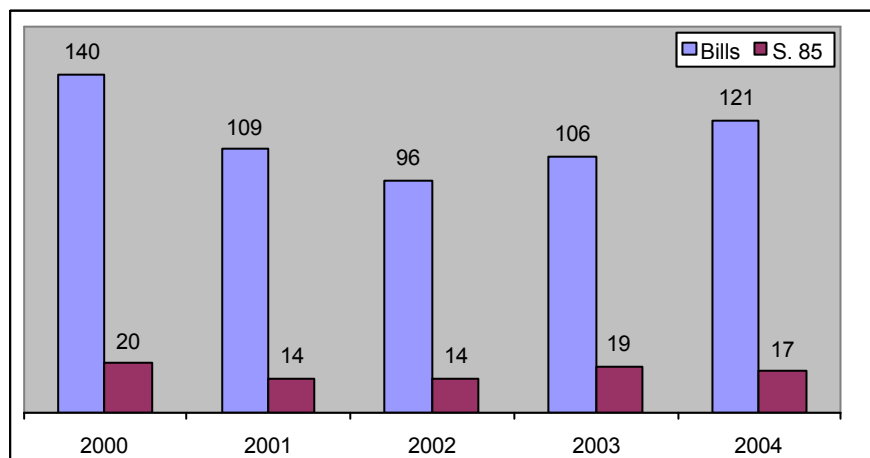
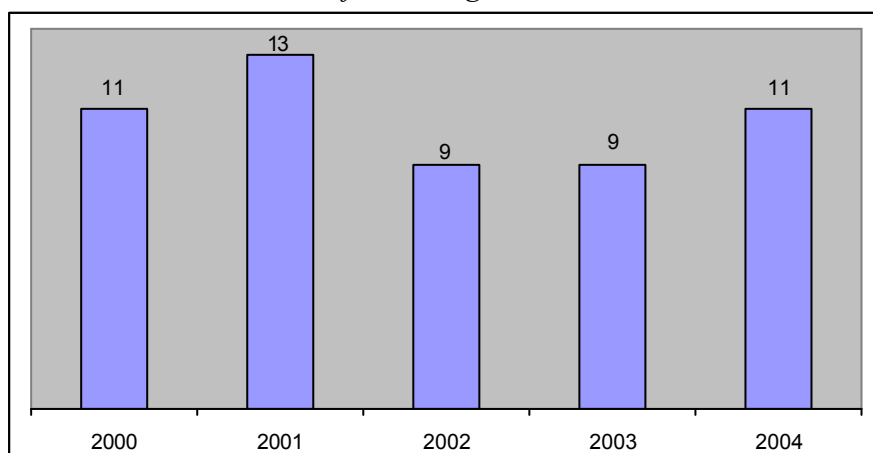


Table 2 – Number of Alert Digests tabled in Parliament



Section 17(d) – Scrutiny of Regulations – Subordinate Legislation Act 1994

Regulation Review Subcommittee

The Regulation Review Subcommittee held 9 meetings and 1 informal meeting during 2004. During those meetings it considered 170 statutory rules and 2 waste management policies and 1 state environment protection policy. Of those statutory rules considered by the Subcommittee, 34 were accompanied by regulation impact statements. **Appendix 5** lists all the statutory rules examined by the Subcommittee in 2004.

The Subcommittee did not make any reports to Parliament during 2004. However of the statutory rules examined during 2004, the Subcommittee had concerns with 36 and wrote to responsible Ministers seeking clarification. The Subcommittee received satisfactory responses to the issues raised.

Section 17(e) – Environment Protection Act 1970

The Regulation Review Subcommittee considered two waste management policies and one state environment protection policy during 2004 under this term of reference.

Section 17(f) – Reports pursuant to the Co-operative Schemes (Administrative Actions) Act 2001

The Committee was not required to report to the Parliament during 2004 on any Act sought to be declared pursuant to the *Co-operative Schemes (Administrative Actions) Act 2001*.

A declaration of an Act (by Order of the Governor in Council) has the effect of validating certain past administrative actions taken under the declared Act and provides a legal immunity from proceedings for certain past actions. Without such a declaration a recent High Court decision^{xii} has suggested that past administrative actions may be vulnerable to challenge. The immunity limits or varies the jurisdiction of the Supreme Court to hear certain proceedings challenging any relevant past actions.

Section 17(g) – Review of Acts referred to the Committee

Redundant Legislation Subcommittee

The Subcommittee's external consultants concluded their research concerning the 3 Acts referred to the Committee for investigation as redundant, ambiguous or unclear legislation and a report was tabled in the Parliament in November 2004. This report concerned 3 Acts, the *Perpetuities and Accumulations Act 1968*, the *Maintenance Act 1965* and the *Marriage Act 1958*.

Section 33 – Referrals to Joint Investigatory Committees

During 2004 the Committee had 2 uncompleted Governor in Council referrals before it under this section of the Act, they were the –

- inquiry pursuant to section 207 of the *Equal Opportunity Act 1995*, and the
- inquiry concerning Electronic Democracy.

Committee Expenditure and Budget^{xiii}

<i>Actual 2002-2003</i>	<i>Budget 2003 – 2004</i>	<i>Actual 2003/2004</i>	<i>Budget 2004/2005</i>
\$418,667	\$419,086	\$418,667	\$455,866

Expenditure for the half year ended 31 December 2004 was \$226,046 or 49.6% of the full year's budget.

Committee publications released during 2004

During 2004 the Committee published the following reports and papers in hard copy and also on its Website –

- Consolidated Alert Digests Nos. 1 to 9 of 2003, *February 2004*.
- Annual Review 2003, *May 2004*.
- Annual Review 2003, Regulations 2003, *May 2004*.
- Alert Digests Nos. 1 to 11 of 2004, *March to November 2004*.
- Discussion Paper concerning Electronic Democracy, *November 2004*.
- Review of Redundant and Unclear Legislation, Report concerning the Maintenance Act 1965, Marriage Act 1958 and the Perpetuities and Accumulations Act 1968, *November 2004*.
- Victorian Electronic Democracy, Report on Evidence Obtained in North America – August 2004, *November 2004*.
- Discrimination in the Law, Progress Report: Summary of Submissions, Statutory Compliance Defences and Human Rights Protections, *December 2004*.

A chronological listing of all Committee reports and publications dating from the inception of the Committee's work in 1993 to the present day is provided in **Appendix 4**.

Reports due to be published during 2005

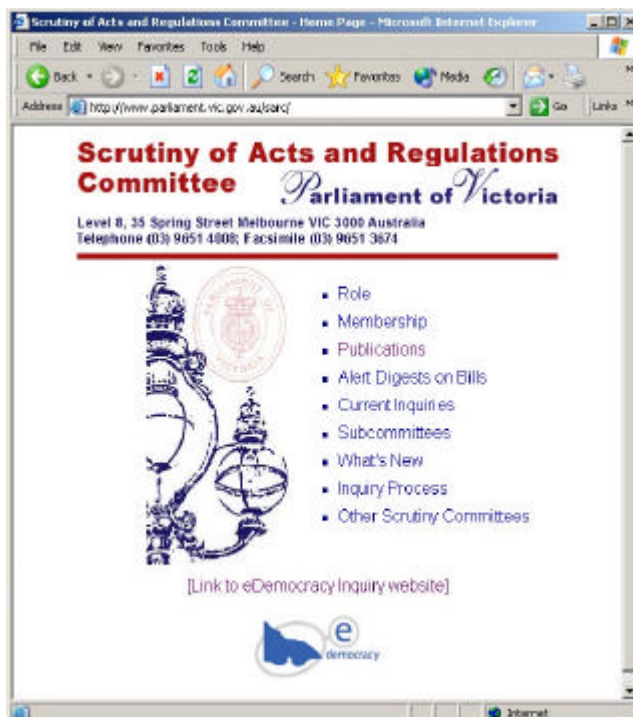
- Report on the Statute Law Revision Bill 2004, *February 2005*.
- Alert Digests on Bills introduced during 2005, *February to December 2005*.
- Interim Report on the inquiry pursuant to section 207 of the *Equal Opportunity Act 1995*, *March 2005*.
- Final Report, Victorian Electronic Democracy, *April 2005*.
- Annual Review 2004, Regulations 2004, *May/June 2005*.
- Final Report on the inquiry pursuant to section 207 of the *Equal Opportunity Act 1995*, *June/July 2005*.

Committee Website

During 2004 the Committee continued to maintain a comprehensive and frequently updated Website. The Website has cross links to the Department of Premier and Cabinet (DPC) site detailing Bills currently before Parliament. The DPC site has a link to the Hansard site giving easy access to Second Reading Speeches.

The Committee site also maintains contact details and Membership of counterpart scrutiny committees in the Commonwealth, State and Territory Parliaments.

The Committee Website address is < www.parliament.vic.gov.au/sarc >



Endnotes

- i To be published early 2005.
- ii Published in February 2005.
- iii *Parliamentary Committees Act 2003*, section 5(k).
- iv *Parliamentary Committees Act 2003*, section 21(1).
- v *Subordinate Legislation Act 1994*, section 21.
- vi Report on the Evidence obtained in North America - August 2004, November 2004.
- vii *Parliamentary Committees Act 2003*, sections 17(a) and (b).
- viii The scrutiny of statutory rules (regulations) predates the formation of the Committee and was performed by a number of predecessor Parliamentary Committees such as the Legal and Constitutional Committee (now defunct).
- ix *Parliamentary Committees Act 2003*, sections 17(d) and (e).
- x *Parliamentary Committees Act 2003*, sections 33(1)(a) and (b).
- xi *Parliamentary Committees Act 2003*, section 33(1)(b).
- xii *The Queen v. Hughes* (2000) 171 ALR 155
- xiii Budgets and expenditure include current inquiry budgets, staff salaries, superannuation and training, office expenses, Members allowances and interstate and overseas travel.

Appendix 1

Index of Bills Reported 2004

	<u>Alert Digest Nos.</u>
Aboriginal Lands (Amendment) Bill	7
Accident Compensation Legislation (Amendment) Bill	11
Alpine Resorts (Management) (Amendment) Bill	4
Ambulance Services (Amendment) Bill	5
Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill	5, 6
Appropriation (2004/2005) Bill	5
Appropriation (Parliament 2004/2005) Bill	5
Architects (Amendment) Bill	5
Births, Deaths and Marriages Registration (Amendment) Bill	4
Building (Amendment) Bill	6
Building (Cooling Towers and Plumbing)(Amendment) Bill	10
Children and Young Persons (Age Jurisdiction) Bill	8
Children and Young Persons (Koori Court) Bill	10
Commonwealth Games Arrangements (Further Amendment) Bill	2
Commonwealth Powers (De Facto Relationships) Bill	9
Constitution (Recognition of Aboriginal People) Bill	7
Construction Industry Long Service Leave (Amendment) Bill	9
Control of Genetically Modified Crops Bill	3
Corrections and Major Crime (Investigative Powers) Acts (Amendment) Bill	11
Corrections (Further Amendment) Bill	2
Courts Legislation (Funds in Court) Bill	4
Courts Legislation (Judicial Appointments and Other Amendments) Bill	10
Courts Legislation (Judicial Appointments) Bill	4
Crimes (Amendment) Bill	5
Crimes (Assumed Identities) Bill	3, 5
Crimes (Controlled Operations) Bill	3, 5
Crimes (Dangerous Driving) Bill	6
Crimes (Money Laundering) Bill	1
Dangerous Goods Legislation (Amendment) Bill	8
Death Notification Legislation (Amendment) Bill	5
Domestic Building Contracts (Amendment) Bill	5, 6
Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill	8, 9
Electricity Industry (Wind Energy Development) Bill	9
Electoral Legislation (Amendment) Bill	9
Emergency Services Telecommunications Authority Bill	11
Energy Legislation (Amendment) Bill	10
Energy Legislation (Regulatory Reform) Bill	4
Essential Services Commission (Amendment) Bill	8

Estate Agents and Travel Agents Acts (Amendment) Bill	2
Evidence (Witness Identity Protection) Bill	7
Extractive Industries Development (Amendment) Bill	1
Fair Trading (Consumer Contracts) Bill	5
Fair Trading (Enhanced Compliance) Bill	11
Financial Management (Amendment) Bill	5
Fisheries (Further Amendment) Bill	1
Gambling Regulation (Amendment) Bill	7
Gambling Regulation (Further Amendment) Bill	11
Gambling Regulation Bill	1
Gas Industry (Residual Provisions) (Amendment) Bill	1
Health Services (Governance and Accountability) Bill	5
Health Services (Supported Residential Services) Bill	3
Heritage (Further Amendment) Bill	3
Heritage (World Heritage) Bill	11
Housing (Housing Agencies) Bill	11
Interpretation of Legislation (Amendment) Bill	5
Judicial Salaries Bill	5
Justice Legislation (Sexual Offences and Bail) Bill	4
Land (Miscellaneous) Bill	3
Land Tax (Amendment) Bill	3
Legal Profession Bill	11
Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Bill	9
Limitation of Actions (Adverse Possession) Bill	8
Limitation of Actions (Amendment) Bill	2
Magistrates' Court (Family Violence) Bill	7
Magistrates' Court (Increased Civil Jurisdiction) Bill	7
Major Crime (Investigative Powers) Bill	9, 10
Major Crime (Special Investigations Monitor) Bill	7, 10
Major Crime Legislation (Office of Police Integrity) Bill	7, 9
Major Crime Legislation (Seizure of Assets) Bill	9
Marine (Amendment) Bill	2
Mental Health Legislation (Commonwealth Detainees) Bill	5
Mildura College Lands (Amendment) Bill	10
Mitcham-Frankston Project Bill	5, 6
Monetary Units Bill	2, 3, 5
Multicultural Victoria Bill	10
Planning and Environment (Development Contributions) Bill	10
National Parks (Additions and Other Amendments) Bill	6
Nurses (Amendment) Bill	1
Occupational Health and Safety Bill	11
Ombudsman Legislation (Police Ombudsman) Bill	5
Parliamentary Committees Bill	1
Parliamentary Salaries and Superannuation (Amendment) Bill	7
Parliamentary Superannuation Legislation (Reform) Bill	11
Parliamentary Superannuation Legislation (Reform) Bill	8
Petroleum Products (Terminal Gate Pricing) (Amendment) Bill	9
Petroleum (Submerged Lands) (Amendment) Bill	2
Pharmacy Practice Bill	5
Planning and Environment (General Amendment) Bill	8
Primary Industries Legislation (Further Miscellaneous Amendments) Bill	8

Primary Industries Legislation (Miscellaneous Amendments) Bill	4
Private Security Bill	4
Professional Standards Bill	2
Public Administration Bill	11
Public Prosecutions (Amendment) Bill	1
Racing and Gaming Acts (Amendment) Bill	5
Road Management Bill	2, 4
Road Safety (Amendment) Bill	1
Safety on Public Land Bill	11
Sentencing (Superannuation Orders) Bill	6
Sex Offenders Registration Bill	6, 8
Shop Trading Reform (Simplification) Bill	1
State Sport Centres (Amendment) Bill	8
State Concessions Bill	9
State Taxation Acts (Amendment) Bill	8
State Taxation Acts (Tax Reform) Bill	5
Surveillance Devices (Amendment) Bill	3, 5
Surveying Bill	5
Sustainable Forests (Timber) Bill	5, 6
Teaching Service (Conduct and Performance) Bill	8
Transfer of Land (Electronic Transactions) Bill	3, 5
Transport Accident (Amendment) Bill	9
Transport Legislation (Amendment) Bill	11
Transport (Rights and Responsibilities) Bill	1
Transport Legislation (Miscellaneous Amendments) Bill	5
Treasury and Finance Legislation (Amendment) Bill	5
Unclaimed Moneys (Amendment) Bill	1
Victorian Civil and Administrative Tribunal (Amendment) Bill	6
Victorian Qualifications Authority (National Registration) Bill	4
Water Efficiency Labelling and Standards Bill	10
Water Industry (Environmental Contributions) Bill	7
World Swimming Championships Bill	10

Tabling dates

Alert Digest No. 1	2 March 2004
Alert Digest No. 2	30 March 2004
Alert Digest No. 3	20 April 2004
Alert Digest No. 4	4 May 2004
Alert Digest No. 5	25 May 2004
Alert Digest No. 6	24 August 2004
Alert Digest No. 7	14 September 2004
Alert Digest No. 8	5 October 2004
Alert Digest No. 9	3 November 2004
Alert Digest No. 10	16 November 2004
Alert Digest No. 11	30 November 2004

Appendix 2

Committee Comments classified by Terms of Reference

Alert Digest Nos.

Section 17(a)

(i) trespasses unduly upon rights or freedoms

Crimes (Controlled Operations) Bill	3
Domestic Building Contracts (Amendment) Bill	5
Major Crime (Investigative Powers) Bill	9
Major Crimes (Seizure of Assets) Bill	9
Major Crime (Special Investigations Monitor) Bill	7
Parliamentary Superannuation Legislation (Reform) Bill	8
Victorian Civil and Administrative Tribunal (Amendment) Bill	6

(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers

Crimes (Assumed Identities) Bill	3
Housing (Housing Agencies) Bill	11
Occupational Health and Safety Bill	11
Public Administration Bill	11
Major Crime Legislation (Office of Police Integrity) Bill	7
Mitcham-Frankston Project Bill	5
Road Management Bill	2

(iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the Information Privacy Act 2000

Crimes (Assumed Identities) Bill	3
Major Crime (Investigative Powers) Bill	9
Sex Offenders Registration Bill	6
Surveillance Devices (Amendment) Bill	3
Transfer of Land (Electronic Transactions) Bill	3

(vi) inappropriately delegates legislative power

Monetary Units Bill	2
Safety on Public Land Bill	11
Sustainable Forests (Timber) Bill	5

(vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill	8
Monetary Units Bill	2

Section 17(b)

(i) and (ii) repeals, alters or varies the jurisdiction of the Supreme Court

Crimes (Amendment) Bill	5
Evidence (Witness Identity Protection) Bill	7
Gambling Regulation (Amendment) Bill	7
Health Services (Governance and Accountability) Bill	5
Limitation of Actions (Amendment) Bill	2
Major Crime Legislation (Office of Police Integrity) Bill	7
Major Crime (Investigative Powers) Bill	9
Mitcham-Frankston Project Bill	5
Ombudsman Legislation (Police Ombudsman) Bill	5
Petroleum (Submerged Lands)(Amendment) Bill	2
Primary Industries Legislation (Miscellaneous Amendments) Bill	4
Private Security Bill	4
Road Management Bill	2
Sex Offenders Registration Bill	6
State Sport Centres (Amendment) Bill	8
Sustainable Forests (Timber) Bill	5
Treasury and Finance Legislation (Amendment) Bill	5

Appendix 3

Ministerial Correspondence

Table of Correspondence between the Committee and Ministers during 2004

Bill Title	Minister/ Member	Date of Committee Letter	Date of Minister's Response	Issue Raised in Alert Digest No.	Response Published in Alert Digest No.
Extractive Industries Development (Amendment) Bill	Resources	28.10.03	7.1.04	8 of 2003	1 of 2004
Road Safety (Amendment) Bill	Transport	28.10.03	5.2.04	8 of 2003	1 of 2004
Transport (Rights and Responsibilities) Bill	Transport	28.10.03	24.11.03	8 of 2003	1 of 2004
Unclaimed Moneys (Amendment) Bill	Treasurer	28.10.03	20.1.04	8 of 2003	1 of 2004
Crimes (Money Laundering) Bill	Attorney-General	18.11.03	10.12.03	9 of 2003	1 of 2004
Fisheries (Further Amendment) Bill	Agriculture	18.11.03	5.12.03	9 of 2003	1 of 2004
Gambling Regulation Bill	Gaming	18.11.03	3.12.03	9 of 2003	1 of 2004
Parliamentary Committees Bill	Premier	18.11.03	18.12.03	9 of 2003	1 of 2004
Shop Trading Reform (Simplification) Bill	Small Business	18.11.03	7.1.04	9 of 2003	1 of 2004
Professional Standards Bill	Finance	28.10.03	5.2.04	8 of 2003	2 of 2004
Monetary Units Bill	Treasurer	1.4.04	2.4.04	2 of 2004	3 of 2004
Roads Management Bill	Transport	1.4.04	24.4.04	2 of 2004	4 of 2004
Transfer of Land (Electronic Transactions) Bill	Planning	20.4.04	5.5.04	3 of 2004	5 of 2004
Crimes (Controlled Operations) Bill	Attorney-General	20.4.04	10.5.04	3 of 2004	5 of 2004
Crimes (Assumed Identities) Bill	Attorney-General	20.4.04	10.5.04	3 of 2004	5 of 2004
Monetary Units Bill	Treasurer	20.4.04	7.5.04	3 of 2004	5 of 2004

Bill Title	Minister/ Member	Date of Committee Letter	Date of Minister's Response	Issue Raised in Alert Digest No.	Response Published in Alert Digest No.
Appeals Costs and Penalty Interest Rates Acts (Amendment) Bill	Attorney-General	25.5.04	10.6.04	5 of 2004	6 of 2004
Surveillance Devices (Amendment) Bill	Attorney-General	20.4.04	10.5.04	3 of 2004	5 of 2004
Domestic Building Contracts (Amendment) Bill	Attorney-General	25.5.04	1.6.04	5 of 2004	6 of 2004
Mitcham-Frankston Project Bill	Transport	25.5.04	26.7.04	5 of 2004	6 of 2004
Sustainable Forests (Timber) Bill	Environment	25.5.04	19.6.04	5 of 2004	6 of 2004
Sex Offenders Registration Bill	Corrections	24.8.04	16.9.04	6 of 2004	8 of 2004
Victorian Civil and Administrative Tribunal (Amendment) Bill	Attorney-General	24.8.04		6 of 2004	
Major Crime (Special Investigations Monitor) Bill	Attorney-General	14.9.04		7 of 2004	
Major Crime Legislation (Office of Police Integrity) Bill	Attorney-General	14.9.04	7.10.04	7 of 2004	9 of 2004
Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Bill	Health	5.10.04	13.10.04	8 of 2004	9 of 2004
Parliamentary Superannuation Legislation (Reform) Bill	Minister for Finance	5.10.04	15.11.04	8 of 2004	10 of 2004
Major Crime (Investigative Powers) Bill	Minister for Police	3.11.04		9 of 2004	
Housing (Housing Agencies) Bill	Housing	30.11.04		11 of 2004	
Occupational Health and Safety Bill	WorkCover	30.11.04		11 of 2004	
Public Administration Bill	Premier	30.11.04		11 of 2004	
Safety on Public Land Bill	Environment	30.11.04		11 of 2004	

Appendix 4

Committee Reports and Other Papers

Chronological Listing of Committee Reports and Other Papers

Reports to Parliament Alert Digest Nos. 1 to 10; Cumulative Report Nos. 1 and 2	March to May 1993
First Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1991	March 1993
Second Report on Subordinate Legislation Port of Melbourne Authority (Transport, Handling and Storage of Dangerous Substances and Oils) Regulations 1992	March 1993
Operation of the Subordinate Legislation Act 1962	March 1993
Commencement by Proclamation	April 1993
First Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Local Government (Reporting and Accounting) Regulations 1993	May 1993
Report by the Honourable B.A.E. Skeggs, MLC Discussions with the Select Committee on the Scrutiny of Delegated Powers, House of Lords, Westminster	October 1993
Third Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1992	October 1993
Review of the Victorian Equal Opportunity Act 1984 Interim Report	October 1993
Report upon an Inquiry into the Operation of the Subordinate Legislation Act 1962	November 1993
Second Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Water (Annual Reporting) (Amendment) Regulations 1993	November 1993
Review of the Victorian Equal Opportunity Act 1984 Final Report	November 1993
Proceedings of the Australasian and Pacific Conference on Delegated Legislation and Scrutiny of Bills, July 1993	November 1993
World Conference on Human Rights, Austria	November 1993
Reports to Parliament Alert Digest Nos. 11 to 20 of 1993	July to November 1993

Scrutiny of Acts and Regulations Committee

Fourth Report on Subordinate Legislation Land Tax (Further Amendment) Regulations 1993	March 1994
Scrutiny of Acts and Regulations Committee First Annual Report	April 1994
Reports to Parliament Alert Digest Nos. 1 to 7 of 1994	March to May 1994
Redundant and Unclear Legislation First Report	November 1994
Fifth Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1993	November 1994
Report on the Australian Federalism Conference, July 1994	November 1994
Reports to Parliament Alert Digest Nos. 8 to 14 of 1994	August to November 1994
Sixth Report on Subordinate Legislation Stock (Hormonal Growth Promotants Status Declarations) Regulations 1994	March 1995
Scrutiny of Acts and Regulations Committee Second Annual Report	March 1995
Possible repeal of the Carriers and Innkeepers Act 1966, Discussion Paper	April 1995
Seventh Report on Subordinate Legislation Environment Protection (Scheduled Premises and Exemptions) Regulations 1994	May 1995
Discussion Paper No. 1, Section 85 of the Constitution Act 1975	May 1995
Reports to Parliament Alert Digest Nos. 1 to 8 of 1995	March to June 1995
Discussion paper No. 1 on the Scrutiny of National Scheme Legislation and the Desirability of Uniform Scrutiny Principles	August 1995
Eight Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1994	September 1995
Redundant and Unclear Legislation Review of the Trade Unions Act 1958	November 1995
Redundant and Unclear Legislation Second Report	November 1995
Reports to Parliament Alert Digest Nos. 9 to 14 of 1995	August to November 1995
Review of the Evidence Act 1958 (Vic) and Review of the Role and appointment of Public Notaries	October 1996
Scrutiny of Acts and Regulations Committee Third Annual Report	November 1996
Redundant and Unclear Legislation Review of the Hire Purchase Act 1959	December 1996

Redundant and Unclear Legislation Review of Unlawful Assemblies and Processions Act 1958, Issues Paper	December 1996
Abalone – Taking Stock – Information Paper Review of the Fisheries (Abalone) Regulations 1996 under the Subordinate Legislation Act 1994	December 1996
Reports to Parliament Alert Digest Nos. 1 to 10 of 1996	March 1997
Scrutiny of Acts and Regulations Committee Fourth Annual Report	April 1997
Ninth Report on Subordinate Legislation Annual Report Concerning Statutory Rules Series 1995 and 1996	May 1997
Redundant and Unclear Legislation Third Report	December 1997
Reports to Parliament Alert Digest Nos. 1 to 12 of 1997	December 1997
Redundant and Unclear Legislation Review of the Carriers and Innkeepers Act 1958	May 1998
Tenth Report on Subordinate Legislation Annual Report Concerning Statutory Rules Series 1997	May 1998
Scrutiny of Acts and Regulations Committee Fifth Annual Report	May 1998
The Right to Silence: An Examination of the Issues, Discussion Paper	June 1998
Reports to Parliament Alert Digests Nos. 1 to 8 of 1998	December 1998
Inquiry into the Right to Silence, Final Report	March 1999
Scrutiny of Acts and Regulations Committee Sixth Annual Report	May 1999
Eleventh Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1998	May 1999
Redundant and Unclear Legislation Review of the Unlawful Assemblies and Processions Act 1958	May 1999
Reports to Parliament Alert Digests Nos. 1 to 6 of 1999	September 1999
Redundant and Unclear Legislation Review of the Constitutional Convention Act 1972	May 2000
Report on the Statute Law Revision Bill	October 2000
Inquiry into the Subordinate Legislation Act 1994, Discussion Paper	November 2000
Reports to Parliament Alert Digests Nos. 1 to 11 of 2000	February 2001

Scrutiny of Acts and Regulations Committee

Scrutiny of Acts and Regulations Committee Annual Review 2000	February 2001
Committee Newsletter No. 1	March 2000
Annual Review 2000, Regulations 1999 and 2000	April 2001
Redundant and Unclear Legislation Inquiry into the Summary Offences Act 1966, Discussion Paper	May 2001
Report on an Interim Privacy Code for Members of the Victorian Parliament	May 2001
Committee Newsletter No. 2	August 2001
Privacy Code for Members of the Victorian Parliament, Frequently Asked Questions and Compliance Checklist	October 2001
Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the National Crime Authority (State Provisions) Act 1984 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	November 2001
Redundant and Unclear Legislation Inquiry into the Summary Offences Act 1966, Final Report	November 2001
Reports to Parliament Alert Digests Nos. 1 to 13 of 2001	February 2002
Scrutiny of Acts and Regulations Committee Annual Review 2001	February 2002
Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	February 2002
Final Report on a Privacy Code of Conduct for Members of the Victorian Parliament	March 2002
Report on the Statute Law (Further Revision) Bill	March 2002
Review of the Vagrancy Act 1966, Discussion Paper	April 2002
Improving Victoria's Parliamentary Committee System	May 2002
Parliamentary Review of ANZAC Day Laws, Discussion Paper	June 2002
Committee Newsletter No. 3	July 2002
Inquiry into Electronic Democracy, Discussion Paper	September 2002
Review of the Vagrancy Act 1966, Final Report	September 2002
Inquiry into the Subordinate Legislation Act 1994	September 2002
Annual Review 2001, Regulations 2001	October 2002
Parliamentary Review of ANZAC Day Laws	October 2002
Reports to Parliament Alert Digests Nos. 1 to 9 of 2002	April 2003
Annual Review 2002	August 2003
Annual Review 2002, Regulations 2002	November 2003

Discrimination in the Law, Discussion Paper	December 2003
Reports to Parliament	
Alert Digests Nos. 1 to 9 of 2003	February 2004
Annual Review 2003	May 2004
Annual Review 2003, Regulations 2003	May 2004
Victorian Electronic Democracy, Discussion Paper	November 2004
Redundant and Unclear Legislation, Report concerning the Maintenance Act 1965, Marriage Act 1958 and the Perpetuities and Accumulations Act 1968	November 2004
Victorian Electronic Democracy, Report on Evidence Obtained in North America– August 2004	November 2004
Discrimination in the Law, Progress Report: Summary of Submissions, Statutory Compliance Defences and Human Rights Protections	December 2004

Appendix 5

Regulations considered in 2004

STATUTORY RULES SERIES 2003

Regulation Impact Statements

SR No. 133 – Fisheries (Amendment) Regulations 2003

SR No. 135 – Road Safety (Vehicles)(Registration Fees No.2) Regulations 2003

SR No. 141 – Public Records Regulations 2003

SR No. 154 – Firearms (Handguns) Regulations 2003

S. 8(1)(a) – Fees

SR No. 139 – Police (Charges)(Amendment) Regulations 2003

SR No. 140 – Plumbing (Fees Amendment) Regulations 2003

SR No. 143 – Marine (Fees) Regulations 2003

SR No. 150 – National Parks (Fees And Charges)(Amendment) Regulations 2003

SR No. 152 – Land Act (Fees) Regulations 2003

S. 8(1)(b) – Court Rules

SR No. 138 – County Court (Chapter 1 Amendment No.12) Rules 2003

SR No. 142 – Supreme Court (Chapter 1 Amendment No.25) Rules 2003

SR No. 144 – Magistrates’ Court Civil Procedure (Amendment No.10) Rules 2003

SR No. 147 – Victims of Crime Assistance (Delegation) Regulations 2003

S. 8(1)(d)(iii) – Extension of Operation

SR No. 137 – Subordinate Legislation (Transport (Roads And Property) Regulations 1993 – Extension of Operation) Regulations 2003

SR No. 151 – Subordinate Legislation (Royal Botanic Gardens Regulations 1994 – Extension of Operation) Regulations 2003

S. 9(1)(a) – No Economic Burden

SR No. 145 – Fisheries (Recreational Fees and Levies) Regulations 2003

SR No. 155 – Police (Amendment) Regulations 2003

S. 9(1)(c) – Fundamentally Declaratory

SR No. 127 – Business Names (Amendment) Regulations 2003

S. 9(1)(a) – No Economic Burden and S. 9(1)(c) – Fundamentally Declaratory

- SR No. 131 – Evidence (Affidavits and Statutory Declarations)(Amendment) Regulations 2003
- SR No. 132 – Magistrates’ Court General (Amendment) Regulations 2003
- SR No. 134 – Cemeteries (Incorporation of Trusts)(Amendment) Regulations 2003
- SR No. 136 – Road Safety (Drivers)(Demerit Points) Regulations 2003
- SR No. 146 – Electricity Safety (Equipment)(Amendment) Regulations 2003
- SR No.148 – Estate Agents (Contracts)(Amendment) Regulations 2003
- SR No. 149 – Electricity Safety (Management)(Amendment) Regulations 2003
- SR No. 153 – Valuation of Land (General Valuation) Regulations 2003
- SR No. 156 – Transport Accident (Prescribed Severe Injury) Regulations 2003
- SR No. 157 – Occupational Health and Safety (Asbestos)(Amendment) Regulations 2003

STATUTORY RULES SERIES 2004

Regulation Impact Statements

- SR No. 1 – Livestock Disease Control (Amendment) Regulations 2004
- SR No. 5 – Sale of Land Regulations 2004
- SR No. 8 – Health (Infectious Diseases)(Amendment) Regulations 2004
- SR No. 3 – Estate Agents (Education) Regulations 2004
- SR No. 10 – Occupational Health and Safety (Noise) Regulations 2004
- SR No. 16 – Marine (Designated Ports) Regulations 2004
- SR No. 9 – Country Fire Authority Regulations 2004
- SR No. 12 – Police Regulation (Fees and Charges) Regulations 2004
- SR No. 21 – Survey Co-Ordination Regulations 2004
- SR No. 23 – Prevention of Cruelty to Animals (Tail Docking Of Dogs) Regulations 2004
- SR No. 22 – Fisheries (Fees and Levies) Regulations 2004
- SR No. 44 – Drugs, Poisons and Controlled Substances (Division 2 Nurses Amendment) Regulations 2004
- SR No. 63 – Prevention of Cruelty to Animals (Amendment) Regulations 2004
- SR No. 64 – Prevention of Cruelty to Animals (Further Amendment) Regulations 2004
- SR No. 65 – Evidence (Crown Witnesses Allowances and Expenses) Regulations 2004
- SR No. 67 – Tertiary Education (Fees) Regulations 2004
- SR No. 74 – Freedom of Information (Access Charges) Regulations 2004
- SR No. 79 – Plumbing (Water and Energy Savings) Regulations 2004
- SR No. 96 – Wildlife (Whales)(Amendment) Regulations 2004
- SR No. 51 – Architects Regulations 2004
- SR No. 62 – Control Of Weapons (Amendment) Regulations 2004

- SR No. 77 – Forests (Fire Protection) Regulations 2004
 SR No. 107 – Intellectually Disabled Persons' Services (Fees) Regulations 2004
 SR No. 115 – Property Law (Fees) Regulations 2004
 SR No. 116 – Subdivision (Registrar's Fees) Regulations 2004
 SR No. 117 – Instruments (Fees) Regulations 2004
 SR No. 118 – Transfer of Land (Fees) Regulations 2004

S. 8(1)(a) – Fees

- SR No. 50 – Road Safety (Drivers)(Fees) Regulations 2004
 SR No. 85 – Road Safety (Drivers)(Miscellaneous Fees) Regulations 2004
 SR No. 87 – Chattel Securities (Miscellaneous Fees) Regulations 2004
 SR No. 89 – Zoological Parks and Gardens (Fees) Regulations 2004
 SR No. 120 – Pharmacists (Interim)(Fees) Regulations 2004

S. 8(1)(b) – Court Rules

- SR No. 29 – Victorian Civil and Administrative Tribunal (Amendment No.13) Rules 2004
 SR No. 32 – Supreme Court (Chapter III Amendment No.8) Rules 2004
 SR No. 33 – Supreme Court (Chapter VI Amendment No.5) Rules 2004
 SR No. 54 – Supreme Court (Administration and Probate) Rules 2004
 SR No. 72 – County Court (Chapter I Amendment No.13) Rules 2004
 SR No. 95 – Court Security Regulations 2004
 SR No. 100 – Supreme Court (Chapter I Amendment No.26) Rules 2004

S. 8(1)(d)(iii) – Extension Of Operation

- SR No. 17 – Subordinate Legislation (Club Keno Regulations 1994 – Extension Of Operation) Regulations 2004
 SR No. 18 – Subordinate Legislation (Casino Control (Special Employees) Regulations 1994 – Extension Of Operation) Regulations 2004
 SR No. 31 – Subordinate Legislation (Racing (Racing Appeals Tribunal) Regulations 1994 – Extension Of Operation) Regulations 2004
 SR No. 47 – Subordinate Legislation (Building Regulations 1994 – Extension of Operation) Regulations 2004
 SR No. 61 – Subordinate Legislation (Meat Industry 1994 – Extension of Operation) Regulations 2004
 SR No. 69 – Subordinate Legislation (Transport (Taxi-Cabs) Regulations 1994 – Extension of Operation) Regulations 2004
 SR No. 70 – Subordinate Legislation (Transport (Passenger Vehicles) Regulations 1994 – Extension of Operation) Regulations 2004
 SR No. 71 – Subordinate Legislation (Transport (Passengers and Rail Freight) Regulations 1994 – Extension of Operation) Regulations 2004
 SR No. 93 – Subordinate Legislation (Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994 – Extension of Operation) Regulations 2004
 SR No. 99 – Subordinate Legislation (Teaching Service (Merit Protection Board)(Appeal) Regulations 1994 – Extension of Operation) Regulations 2004

SR No. 119 – Subordinate Legislation (Health (Radiation Safety) Regulations 1994 – Extension of Operation) Regulations 2004

SR No. 124 – Subordinate Legislation (Transport (Railway and Tramway Safety – Alcohol Controls) Regulations 1994 – Extension of Operation) Regulations 2004

SR No. 125 – Subordinate Legislation (Transport (Tow Truck) Regulations 1994 – Extension of Operation) Regulations 2004

SR No. 131 – Subordinate Legislation (Metropolitan Fire Brigades (General) Regulations 1994 – Extension of Operation) Regulations 2004

S. 9(1)(a) – No Economic Burden

SR No. 11 – Conservation, Forests And Lands (Infringement Notice)(Fisheries) Regulations 2004

SR No. 27 – Fisheries (Abalone) Regulations 2004

SR No. 28 – Transport (Infringements)(Amendment) Regulations 2004

SR No. 36 – Fair Trading (Amendment) Regulations 2004

SR No. 48 – Road Safety (Drivers)(Demerit Points) Regulations 2004

SR No. 53 – Extractive Industries Development (Amendment) Regulations 2004

SR No. 55 – Road Safety (Drivers)(Demerit Points Cancellation) Regulations 2004

SR No. 60 – Child Employment Regulations 2004

SR No. 73 – Victorian Civil and Administrative Tribunal (Fees)(Amendment) Regulations 2004

SR No. 82 – Road Safety (Vehicles)(Amendment) Regulations 2004

SR No. 83 – Road Safety (Road Rules)(Amendment) Regulations 2004

SR No. 90 – Transport (Infringements)(Penalties) Regulations 2004

SR No. 84 – Road Management (Interim) Regulations 2004

SR No. 94 – Magistrates’ Court General (Infringements) Regulations 2004

SR No. 97 – Planning and Environment (Amendment) Regulations 2004

SR No. 98 – Subdivision (Procedures)(Amendment) Regulations 2004

SR No. 105 – Occupational Health and Safety (Mines)(Amendment) Regulations 2004

SR No. 108 – Corrections (Victims Register) Regulations 2004

SR No. 110 – Fair Trading (Further Amendment) Regulations 2004

SR No. 121 – Sex Offenders Registration Regulations 2004

S. 9(1)(b) – National Uniform Scheme

SR No. 13 – Petroleum (Submerged Lands)(Amendment) Regulations 2004

SR No. 24 – Electricity Safety (Equipment Efficiency)(Amendment) Regulations 2004

SR No. 41 – Consumer Affairs (Product Safety)(Lighters)(Amendment) Regulations 2004

SR No. 111 – Fair Trading (Safety Standard)(Children’s Toys) Regulations 2004

S. 9(1)(c) – Fundamentally Declaratory

SR No. 15 – Australian Crime Commission (State Provisions) Regulations 2004

SR No. 30 – Local Government (Finance and Reporting) Regulations 2004

- SR No. 34 – Fair Trading (Recreational Services) Regulations 2004
 SR No. 35 – Goods (Revocation) Regulations 2004
 SR No. 39 – Associations Incorporation (Amendment) Regulations 2004
 SR No. 40 – Residential Tenancies (Amendment) Regulations 2004
 SR No. 75 – Parole Orders (Transfer) Regulations 2004
 SR No. 76 – Prisoners (Interstate Transfer) Regulations 2004
 SR No. 80 – Marine (Designated Ports)(Revocation) Regulations 2004
 SR No. 92 – Treasury Corporation of Victoria (Prescribed Agencies) Regulations 2004

S. 9(3) – Premier's Certificate

- SR No. 6 – Forests (Fire Protection)(Interim) Regulations 2004
 SR No. 38 – Road Safety (Vehicles)(Concession Fees) Regulations 2004
 SR No. 78 – Gambling Regulation (Interim) Regulations 2004
 SR No. 102 – Pharmacists (Interim) Regulations 2004

S. 8(1)(a) – Fees and S. 9(1)(a) – No Economic Burden

- SR No. 86 – Road Safety (Vehicles)(Miscellaneous Fees) Regulations 2004
 SR No. 49 – Road Safety (Vehicles)(Registration Fees) Regulations 2004 (Revoked by SR No. 86)

S. 9(1)(a) – No Economic Burden and S. 9(1)(c) – Fundamentally Declaratory

- SR No. 4 – Estate Agents (General, Accounts And Audit)(Amendment) Regulations 2004
 SR No. 7 – Forests (Timber Promotion Council) Regulations 2004
 SR No. 14 – Children's Services (Amendment) Regulations 2004
 SR No. 19 – Health Services (Prescribed Regions) Regulations 2004
 SR No. 20 – Wildlife (Game)(Amendment) Regulations 2004
 SR No. 25 – Tobacco (Victorian Health Promotion Foundation) (Membership) Regulations 2004
 SR No. 37 – Transfer Of Land (General) Regulations 2004
 SR No. 43 – Drugs, Poisons and Controlled Substances (Amendment) Regulations 2004
 SR No. 45 – Nurses (Amendment) Regulations
 SR No. 52 – Evidence (Affidavits and Statutory Declarations) (Amendment) Regulations 2004
 SR No. 56 – Crimes (Confiscation) Regulations 2004
 SR No. 57 – Confiscation (Amendment) Regulations 2004
 SR No. 58 – Electricity Safety (Installations)(Amendment) Regulations 2004
 SR No. 59 – Drugs, Poisons and Controlled Substances (Confiscation) Regulations 2004
 SR No. 66 – Crimes (DNA Database)(Amendment) Regulations 2004
 SR No. 68 – Drugs, Poisons and Controlled Substances (Volatile Substances) Regulations 2004

SR No. 91 – Subordinate Legislation Regulations 2004

SR No. 101 – Nurses Regulations 2004

SR No. 103 – Rural Finance Corporation of Victoria (Amendment) Regulations 2004

SR No. 104 – Medical Practice Regulations 2004

SR No. 106 – Fisheries (Miscellaneous Amendments) Regulations 2004

SR No. 109 – Crimes (Procedure) Regulations 2004

SR No. 112 – Ambulance Services (Exemption) Regulations 2004

SR No. 114 – Electricity Safety (Infringements)(Amendment) Regulations 2004

S. 9(1)(a) – No Economic Burden, S. 9(1)(c) – Fundamentally Declaratory and S. 9(1)(d) Administration between Departments

SR No. 26 – Fisheries (Amendment) Regulations 2004

S. 9(1)(a) – No Economic Burden and S9(1)(d) Administration between Departments

SR No. 42 – Financial Management Regulations 2004

Environment Protection Act 1970

Waste Management Policy (Ships' Ballast Water)

Waste Management Policy (Solid Fuel Heating)

Section 9 – Money Units Act 2004 – Exemption

SR No. 88 – Monetary Units Regulations 2004

Section 9A – Building Act 1993 – Regulatory Impact Statement Not Required

SR No. 2 – Building (Amendment) Regulations 2004

SR No. 46 – Building (Further Amendment) Regulations 2004

SR No. 113 – Building (Siting and Design) Regulations 2004

Section 184 – Port Services Act 1995 – Exemption

SR No. 81 – Port Services (Local Ports) Regulations 2004

Appendix 6

Terms of Reference

Inquiry on a Review of Redundant Legislation

Parliamentary Committees Act 1968

REFERRAL OF INQUIRY TO SCRUTINY OF ACTS AND REGULATIONS

COMMITTEE OF PARLIAMENT

Inquiry on a Review of Redundant Legislation

Order in Council

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, under section 4F of the **Parliamentary Committees Act 1968**, requests that the:

Scrutiny of Acts and Regulations Committee of Parliament inquire into, consider and report to Parliament on:

A review of redundant legislation.

- 1) The Committee is requested, in conjunction with Chief Parliamentary Counsel, to inquire into and consider and make recommendations as to:
 - Acts of Parliament and provisions of Acts of Parliament which are unnecessary or redundant; and
 - legislative instruments made under an Act of Parliament and provisions of legislative instruments made under an Act of Parliament, which are unnecessary or redundant.
- 2) The Committee is requested, in conjunction with Chief Parliamentary Counsel, to inquire into and consider and make recommendations as to:
 - Acts of Parliament and provisions of Acts of Parliament which are unclear, ambiguous or should be re-drafted; and
 - legislative instruments made under an Act of Parliament and provisions of legislative instruments made under an Act of Parliament which are unclear, ambiguous or should be re-drafted.

- 3) In the conduct of this inquiry, the Committee is requested to pursue the primary objects of reducing the number and complexity of Victorian Acts and legislative instruments, and ensuring that Acts and instruments are clearly expressed in accordance with modern drafting practices.
- 4) Acts that the Committee may initially wish to consider under this reference are:
 - **Maintenance Act 1965;**
 - **Marriage Act 1958;** and
 - **Perpetuities and Accumulations Act 1968.**

The Committee is required to report to Parliament on an ongoing basis as each review is completed.

Dated 3 June 2003

Responsible Minister:
STEVE BRACKS
Premier

BRIAN TUKE
Acting Clerk of the Executive Council

Victoria Government Gazette, G23, 5 June 2003, p. 1314-5

Appendix 7

Terms of Reference

Inquiry under section 207 of the Equal Opportunity Act 1995

Parliamentary Committees Act 1968

REFERRAL OF INQUIRY TO SCRUTINY OF ACTS AND REGULATIONS COMMITTEE OF PARLIAMENT

Inquiry under section 207 of the **Equal Opportunity Act 1995**

Order in Council

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, under section 4F of the **Parliamentary Committees Act 1968**, requests that the:

Scrutiny of Acts and Regulations Committee of Parliament inquire into, consider and report to Parliament on:

Provisions which discriminate, or may lead to discrimination, against any person as provided in section 207 of the **Equal Opportunity Act 1995**. In particular the Committee is requested to:

- 1) identify provisions in Victorian Acts and enactments that operate to discriminate, or may lead to discrimination, against any person;
- 2) consider policy considerations for the retention, amendment or repeal of the provisions; and
- 3) make recommendations as to whether the provisions should be retained, amended or repealed.

In considering this reference the Committee should note the objectives of the **Equal Opportunity Act 1995** which include:

- 1) to promote recognition and acceptance of everyone's right to equality; and
- 2) to eliminate, as far as possible, discrimination against people by prohibiting discrimination on the basis of various attributes.

The Committee is required to report to Parliament by 31 March 2004.

Dated 3 June 2003

Responsible Minister:
STEVE BRACKS
Premier

BRIAN TUKE
Acting Clerk of the Executive Council

Victoria Government Gazette, S108, 5 June 2003.

Appendix 8

Terms of Reference

Inquiry into Electronic Democracy

Parliamentary Committees Act 1968

REFERRAL OF INQUIRY TO SCRUTINY OF ACTS AND REGULATIONS COMMITTEE OF PARLIAMENT

Inquiry on Electronic Democracy

Order in Council

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, under section 4F of the **Parliamentary Committees Act 1968**, requests that the:

Scrutiny of Acts and Regulations Committee of Parliament inquire into, consider and report to Parliament on:

- 1) netcasting of Parliamentary proceedings;
- 2) online interactive and collaborative approaches to policy discussion, including citizen email and online forums; and
- 3) other technology solutions to promote access and participation.

And to this end consider the core issues of the:

- 1) potential impact of new and emerging technologies on the democratic processes of government;
- 2) options available to improve democratic processes through the use of such technologies (for example, through electronically enabled voting);
- 3) costs and benefits of new technologies that promote e-democracy;
- 4) equitable access of all citizens to e-democracy;
- 5) legal and regulatory factors; and
- 6) educational or social barriers to the implementation of e-democracy.

In order to review and make recommendations on any necessary or desirable amendments to the **Electoral Act 2002**, the **Electronic Transactions (Victoria) Act 2000** and any other relevant legislation to facilitate these opportunities.

The Committee should have regard to experiences in Victoria and other jurisdictions as well as the evidence on e-democracy included in the discussion paper undertaken by the Scrutiny of Acts and Regulations Committee of the 54th Parliament.

This Inquiry has been proposed to examine the above matters with a focus on public participation in democratic and parliamentary processes. It is not intended to examine issues relating to service delivery and government on-line processes.

The Committee is required to report to Parliament by 31 March 2004^{*}.

Dated 3 June 2003

Responsible Minister:

STEVE BRACKS

Premier

BRIAN TUKE

Acting Clerk of the Executive Council

Victoria Government Gazette, G23, 5 June 2003, p 1314.

* Reporting date extended to 31 March 2005. [*Victoria Government Gazette, G45, 5 November 2004*].