

**VICTORIAN GOVERNMENT RESPONSE TO  
SCRUTINY OF ACTS AND REGULATIONS  
COMMITTEE REPORT ON IMPROVING VICTORIA'S  
PARLIAMENTARY COMMITTEE SYSTEM**



**DEPARTMENT OF PREMIER AND CABINET**

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## VICTORIAN GOVERNMENT RESPONSE TO SCRUTINY OF ACTS AND REGULATIONS COMMITTEE REPORT ON IMPROVING VICTORIA'S PARLIAMENTARY COMMITTEE SYSTEM

### Introduction

1. The Scrutiny of Acts and Regulations Committee is established under section 4D of the *Parliamentary Committees Act 1968* and is empowered to consider Bills introduced into Parliament, or to review Acts pursuant to a reference from a House of Parliament.
2. The Committee received a reference by way of resolution in the Legislative Council on 1 March 2000 to examine, enquire into and consider the *Parliamentary Committees Act 1968* and report to Parliament by 30 June 2001.
3. The Committee subsequently sought an extension to report to May 2002, which was duly granted. The Committee's report, entitled "*Improving Victoria's Parliamentary Committee System*" was tabled in the Legislative Assembly and Legislative Council on 5 June 2002.
4. The report is divided into two sets of recommendations. The first set concerns recommendations to clarify Victoria's existing Parliamentary Committee System, whilst the second set considers the enhancement and expansion of Victoria's existing Parliamentary Committee system.

### Recommendations 1a and 1b

#### Recommendation 1a

*The Committee recommends that, as a minimum, the Parliamentary Committees Act 1968 be repealed and replaced by an Act that uses plain English, and has a user-friendly structure. The Committee draws Parliament's attention to the draft Bill in Appendix A.*

5. The Government appreciates the work that the Committee has undertaken in developing a draft model Bill for a new *Parliamentary Committees Act*. The Government supports in principle an Act, which uses plain English and has a user-friendly structure. The Government will undertake further research on these matters and discuss the issues with the Chairs of all Committees with a view to bringing in a Bill for a new Act later this year.

#### Recommendation 1b

*The Committee recommends that the draft Bill in Appendix A be enhanced to incorporate as many of the other recommendations made by the Committee as the Parliament sees fit, thus creating a modern and effective Parliamentary committee system in Victoria.*

6. Given the response to recommendation 1a, the Government will include amendments in the proposed new Act if required to implement other endorsed recommendations.

## **Recommendations 2a and 2b**

### **Recommendation 2a**

*The Committee recommends that an Act of Parliament should be the principal means by which Parliamentary committees are established.*

7. The Government supports this recommendation. Ongoing committees are currently established under the *Parliamentary Committees Act 1968* and the same situation will be continued under the proposed new legislation. Committees established by resolution of a House, or both Houses should be the exception and ought to be targeted at particular inquiry needs.

### **Recommendation 2b**

*The Committee recommends that the Victorian Parliament should retain the option of establishing Parliamentary committees by means of Standing Orders and by means of resolution.*

8. The Government supports this recommendation. These mechanisms will remain in place.

## **Recommendation 3**

*The Committee recommends that the Parliamentary committee system in Victoria continue to include the option of joint House and single House Parliamentary committees.*

9. The Government supports this recommendation. This mechanism will remain in place.

## **Recommendations 4a and 4b**

### **Recommendation 4a**

*The Committee recommends that matters concerning Parliamentary committees that occur on the floor of either House of Parliament (for example the nomination and balloting of members) continue to be dealt with by Standing Orders.*

10. The Government supports this recommendation. This mechanism will remain in place.

### **Recommendation 4b**

*The Committee recommends that reviews of the Standing Orders take particular note of procedures relating to Parliamentary committees and endeavour to deal with these matters in a modern and appropriate manner.*

11. The Government will seek advice on ways in which the Standing Orders might be modernised in line with the proposed new legislation and present this information for the Parliament to consider in the normal manner.

### **Recommendations 5a to 5c**

#### **Recommendation 5a**

*The Committee recommends that Parliamentary committees established under a new Parliamentary Committees Act should broadly reflect the areas of responsibility of each government department.*

12. The Government does not accept there should be a “one to one” relationship between Departments and Committees. There are several special committees that have a role across Government (Public Accounts and Estimates, Scrutiny of Acts and Regulations and others) and which have a successful history of dealing with important social issues (Road Safety and Drugs & Crime).
13. The Government has recently created three new Committees to fill needs in relation to Education & Training, Rural and Regional Services and Development and Outer Suburban/Interface Services and Development. This new suite of Committees provides good coverage with a match up between major Departments and key subject committees.

#### **Recommendation 5b**

*The Committee recommends that Ministers use Parliamentary committees more readily as a means of researching issues for the Parliament and consulting the public.*

14. The Government acknowledges the valuable work which Parliamentary Committees do. The Government supports Committees being utilised for their research expertise, particularly in relation to issues where there are a wide range of views in the community and emerging trends in other jurisdictions. The Government will encourage Ministers and the Chairs of Committees to consult each other on proposals for new references.

#### **Recommendation 5c**

*The Committee recommends that the Government consider referring draft or proposed Bills to Parliamentary committees where appropriate.*

15. The Government notes the Committee's comments regarding the ability of committees generally to fine tune proposed legislation, and the potential for legislation enjoying wider community support as a result of that fine-tuning.
16. This approach would be impractical given the current format of Committee Inquiries and their long duration. There is a paramount need to ensure that legislation is considered in a timely fashion. It is also noted that both Houses get an opportunity to consider legislation in detail at the Third Reading stage of Bills.
17. The Government is committed to strengthening the democratic workings of Parliament and has already passed major reforms to the Legislative Council, which will come into effect after the next election. The consequential changes that may occur in the way Council committees operate will be considered at that time, including consideration of committees only of Legislative Council members.

## **Recommendations 6a to 6d**

### **Recommendation 6a**

*The Committee recommends that the Scrutiny of Acts and Regulations Committee be given the power to consider Acts if that Committee did not report on them when they were still Bills.*

18. The Government supports this recommendation.

### **Recommendation 6b**

*The Committee recommends that the Road Safety Committee should be renamed the Transport Committee and that its functions be expanded to cover road safety, public transport, ports and rail.*

19. The Government does not support this recommendation as the Road Safety Committee has a long and successful record in identifying and building broad support for road safety reforms.

### **Recommendation 6c**

*The Committee recommends that the Public Accounts and Estimates Committee's functions be amended to reflect the full range of financial and budget documents tabled in the Parliament.*

20. The Government does not support this recommendation and believes that the PAEC has access to a sufficiently wide range of financial documentation currently.

### **Recommendation 6d**

*The Committee recommends the Law Reform Committee should be renamed the Justice Committee and that its functions should be expanded to cover the administration of justice, police, the courts, prisons and law reform.*

21. The Government does not support the expansion of the Committee's functions. The Government accepts there is some scope for confusion with the recently

established Law Reform Commission and will rename this committee the "Legal and Constitutional Committee".

## **Recommendations 7a and 7b**

### **Recommendation 7a**

*The Committee recommends that the House Committee should not be dealt with in an Act dealing with Parliamentary committees. Rather, the House Committee should be dealt with by the Joint Standing Orders of the Victorian Parliament.*

22. The Government believes that the placement of provisions relating to such a Committee in the Act are an inflexible means of dealing with what is essentially a Committee which deals with internal Parliamentary issues. The Government believes that only fundamental provisions relating to the Committee should be covered within the Act (for example, the Committee's establishment), with non-fundamental provisions to become the subject of Joint Standing Orders.

### **Recommendation 7b**

*The Committee recommends that the tenure of the House Committee should be the same as other Parliamentary committees, namely that it hold office until the expiry of the Assembly by effluxion of time or the dissolution of the Assembly, whichever happens first.*

23. The Government notes the apparent inconsistency between the tenure of the House Committee, Library Committee and other committees. The Government supports the recommendation that the tenure of these committees be made consistent.

## **Recommendations 8a and 8b**

### **Recommendation 8a**

*The Committee recommends that the Library Committee should not be dealt with in an Act dealing with Parliamentary committees. Rather, the Library Committee should be dealt with by the Joint Standing Orders of the Victorian Parliament.*

24. The Government believes that the placement of provisions relating to such a Committee in the Act are an inflexible means of dealing with what is essentially a Committee which deals with internal Parliamentary issues. The Government believes that only fundamental provisions relating to the Committee should be covered within the Act (for example, the Committee's establishment), with non-fundamental provisions to become the subject of Joint Standing Orders.

### **Recommendation 8b**

*The Committee recommends that the tenure of the Library Committee should be the same as other Parliamentary committees, namely that it hold office until the*

*expiry of the Assembly by effluxion of time or the dissolution of the Assembly, whichever happens first.*

25. The Government notes the apparent inconsistency between the tenure of the House Committee, Library Committee and other committees. The Government supports the recommendation that the tenure of these committees be made consistent.

## **Recommendations 9a and 9b**

### **Recommendation 9a**

*The Committee recommends that the Parliamentary committee system retain its current flexibility in relation to the size and composition of committees.*

26. The Government supports this recommendation.

### **Recommendation 9b**

*The Committee recommends that members of Parliament be actively encouraged to participate as much as possible in the Parliamentary committee system.*

27. The Government supports this recommendation, although ultimately participation in Committee work is a matter for individual members of Parliament. The creation of additional committees has created additional opportunities for MPs to be involved in Inquiries.

## **Recommendations 10 to 13**

### **Recommendation 10**

*The Committee recommends that a provision similar to section 4Q of the current Act that sets up a committee to hold discussions with a view to securing the more efficient functioning of the committees be included in a new Act dealing with Parliamentary committees.*

28. The Government supports this recommendation and will include a similar provision to the existing 4Q in the proposed new Act.

### **Recommendation 11**

*The Committee recommends that Parliamentary committees be allowed to initiate their own inquiries if the committee members unanimously agree to do so.*

29. The Government does not believe that the case for this change is sufficiently made out. It is noted that the one case where Committees can currently initiate inquiries under section 4F(1)(b) of the Act is rarely used. The Government believes that committees must remain accountable to Parliament. Accordingly, committees

should be established by legislation or motion by either House and references provided by either House or the Governor In Council. To allow committees to self-initiate inquiries may reduce that accountability and lead to duplication of effort.

### **Recommendation 12**

*The Committee recommends that a full committee may empower an individual member to take evidence if the committee members unanimously agree to do so.*

30. The Government supports this recommendation. It recognises the potential saving in time and money that would result from allowing individual members of committees to take evidence. The Government is also cognisant however of the potential for those witnesses to be unhappy with a hearing where a majority of the Committee is not present. It therefore believes this arrangement should only be used in appropriate circumstances and believes that the recommendation is a measured one.

### **Recommendation 13**

*The Committee recommends that Parliamentary committees be given the power to send for persons, documents and other things.*

31. The Government realises the potential for ambiguity arising from the wording of section 4J(1), which is of key importance to the functioning of committees. The Government supports the recommendation.

## **Recommendations 14a to 14c**

### **Recommendation 14a**

*The Committee recommends that all evidence given to a Parliamentary committee should be treated as public unless the committee accepts the evidence on the basis that it is confidential.*

32. The Government agrees that the current provisions relating to confidentiality of submissions is unclear and needs revision. The Government supports the recommendation.

### **Recommendation 14b**

*The Committee recommends that confidential evidence remains confidential unless the person who gave it later consents to its publication.*

33. The Government does not support this recommendation. As a matter of transparency, the source material for information provided in Parliamentary Committee reports must, except in special circumstances, be open and available to the public. It may be the case that evidence provided by a person contains material which may be prejudicial, embarrassing or otherwise offensive to a third party. If this recommendation were adopted, that third party would consequently have no

means of answering allegations made in submissions, if they could remain confidential at the behest of a submitter. In any event, it should be for the relevant committee, not the provider of the evidence to decide what should remain unpublished.

#### **Recommendation 14c**

*The Committee recommends that evidence gathered by a Parliamentary committee that has not completed its inquiry before it is reconstituted, may be used by a committee of the same name or with the same purpose.*

34. The Government notes the convoluted wording of section 4S of the Act, and the associated administrative practice of applying to the President or Speaker to allow a current committee to consider evidence of a former committee. The Government supports the recommendation.

### **Recommendations 15 and 16**

#### **Recommendation 15**

*The Committee recommends that Parliamentary committees make greater use of technology by—*

- *regularly making submissions available on the Internet when appropriate; and*
- *encouraging the public to lodge submissions and comments electronically; and*
- *conducting public hearings via video and audio links when appropriate; and*
- *enabling committee meetings to be held electronically.*

35. The Government supports this recommendation, and urges individual committees to consider the recommendation. It notes that the Parliament currently maintains separate websites for each Committee which each have different structures. A single unified approach, such as that used by the Senate would be more accessible for the public.

#### **Recommendation 16**

*The Committee recommends that Parliamentary committee reports should be able to be tabled when Parliament is not sitting if the committee unanimously decides that this is appropriate.*

36. The Government supports this recommendation and notes that a similar provision to that suggested in the report formed part of the amendments to the *Audit Act 1994* previously brought before Parliament.

## Recommendations 17a to 17d

### Recommendation 17a

*The Committee recommends that responsible Ministers should provide interim responses to Parliamentary committee reports within two months.*

37. The Government does not support this recommendation. The provision of interim responses would divert resources away from final responses and would simply be duplication.

### Recommendation 17b

*The Committee recommends that responsible Ministers should provide final and detailed responses to Parliamentary committee reports within six months.*

38. The Government supports the existing provision for responses to be made within six months. It recognises however the desirability of responses being made as early as possible and the six months is the maximum provided for. Where possible, Ministers should provide responses at an earlier date.

### Recommendation 17c

*The Committee recommends that the final Ministerial responses to committee reports should include the recommendations that are to be adopted and the way and time within which they will be carried out and the reasons for not adopting any committee recommendations.*

39. The Government broadly supports this recommendation but does not believe it is practical to specify detailed timetables. It may be impractical and ultimately unhelpful for responses to contain proposed deadlines, as action is likely to include inherently uncertain periods due to a need for consultation with affected parties, the passage of legislation, interaction with other jurisdictions or legislation, potential litigation and policy development.

### Recommendation 17d

*The Committee recommends that if Parliament is not sitting, responsible Ministers should be able to table their response to committee reports with the President and Speaker.*

40. Consistent with the Government's support of recommendation 16, the Government supports this recommendation.

## Recommendations 18 and 19

### Recommendation 18

*The Committee recommends that an Act dealing with Parliamentary committees not include provisions pertaining to private Bills. Separate legislation may be appropriate.*

41. The Government supports this recommendation, subject to further consultation with Chief Parliamentary Counsel on how to provide for Private Bills in future.

### Recommendation 19

*The Committee recommends that Parliamentary committees be funded by an appropriation made under the Appropriation (Parliament) Act each year.*

42. The Government has already adopted this practice for the current budget year. The *Appropriation (Parliament 2002/2003) Act 2002* which was passed by Parliament last year contains for the first time an item in the schedule providing an appropriation for the Department of Parliamentary Investigative Committees. It is the Government's intention to continue this practice.

## Recommendations 20a to 20d

### Recommendation 20a

*The Committee recommends that the status and role of committee staff be enhanced and that staff should be provided with career development opportunities.*

43. The Government supports this recommendation, but notes that the role and training of committee staff is properly a matter for Parliament.

### Recommendation 20b

*The Committee recommends that Parliamentary committee staff be shared between committees and that a clearer career structure should be developed for research officers to Parliamentary committees.*

44. The Government supports this recommendation, but notes that the employment of and career structure for committee staff is properly a matter for Parliament.

### Recommendation 20c

*The Committee recommends that secondments of staff to and from government departments be facilitated and actively encouraged.*

45. The Government supports this recommendation, but notes that this issue is properly a matter for Parliament.