



# Scrutiny of Acts and Regulations Committee

## Practice Note

[No. 2]

**The Committee adopted the following Practice Note on 6 August 2007.**

The Practice Note advises Victorian Government legislation officers of the Committee's expectations in respect to information that should be provided to the Parliament concerning provisions in Bills that engage the Committee's terms of reference.

In its scrutiny of Bills the Committee may initially make an adverse report to Parliament in its Alert Digest in respect to a number of legislative practices included in a Bill that appear to engage or infringe the Committee's terms of reference in section 17 of the *Parliamentary Committees Act 2003*.

Where the Committee makes an initial adverse comment it will draw the provision to the attention of Parliament and will note that further advice will be sought from the responsible Minister. The Minister's response is published in the next Alert Digest. To avoid needless Ministerial correspondence the Committee strongly prefers that explanatory material<sup>1</sup> be provided at the time a Bill is introduced in Parliament.

The Committee notes the following matters –

### **2.1 Statement of Compatibility – section 28 of the *Charter*<sup>2</sup>**

The Committee will write to Ministers where, in the Committee's opinion, a Statement of Compatibility is inadequate or unhelpful in describing the purpose or effect of provisions in a Bill that may engage or infringe a Charter right.

The Committee has determined that it will characterise a Statement of Compatibility as a form of explanatory memoranda equivalent in status to an explanatory memorandum accompanying a Bill.

The Committee considers that the provision to Parliament of reasonable explanatory material is critical to the Parliament's exercise of legislative power in an informed manner.

The Committee once again endorses the following remarks from a report of the Senate Standing Committee for the Scrutiny of Bills –

*The committee relies on the explanatory memorandum to explain the purpose and effect of the associated bill and the operation of its individual provisions. In particular, the committee expects that an explanation will be*

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<sup>1</sup> Explanatory material includes – (1) a Statement of Compatibility made under section 28 of the *Charter of Rights and Responsibilities Act 2006*, (2) an explanatory memorandum (clause notes), and (3) Ministerial correspondence.

<sup>2</sup> *Charter of Human Rights and Responsibilities Act 2006*.

*given for any provision within a bill that appears to test or infringe the committee's terms of reference and provide reasons or justification for this.*

*\*\* Senate Standing Committee for the Scrutiny of Bills – “The Quality of Explanatory Memoranda Accompanying Bills, 24 March 2004’*

## **2.2 Statute law revision type amendments and their explanatory notes**

The Committee frequently encounters provisions in Bills that include one or more house keeping amendments in the form of statute law revision amendments. These amendments typically correct minor spelling, grammatical or cross-reference errors. On other occasions they may repeal spent or redundant provisions in Acts.

The Committee observes that often the explanatory memorandum in respect to such amendments will simply provide ‘*Clause 27 – makes statute law revision amendments*’. The Committee does not consider this is a useful explanation of the purpose of the statute law revision. By way of contrast, when the Committee deals with Statute Law Revision Bills an explanation is always provided for each item sought to be amended. Some examples found in a recent statute law revision Bill will demonstrate this point –

Item 26 – *Firearms Act 1996* – amends section 3 to repeal the definition of airgun as it is not in the correct alphabetical order.<sup>3</sup>

Item 75 – *Water Act 1989* – amends section 33U(1)(e) to remove an unnecessary full stop; section 64GB(8) to remove an unnecessary hyphen; section 259(1)(c) to remove an unnecessary comma, and section 306(1)(b) to remove an unnecessary word.<sup>4</sup>

In the future scrutiny of Bills the Committee will seek reasoned explanatory material which succinctly characterises the revision or correction sought to be made.

Example: *Clause 13 makes statute law revision amendments.* – Unhelpful

*Clause 13 removes an unnecessary word /punctuation / corrects a cross reference in section 128 OR repeals section 128 as the provision is now spent and any remaining transitional or savings effect is preserved by the operation of section 14 of the Interpretation of Legislation Act 1984.* – Acceptable

**[The Committee's Practice Notes are available on - [www.parliament.vic.gov.au/sarc](http://www.parliament.vic.gov.au/sarc)]**

**Committee Room,  
6 August 2007**

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<sup>3</sup> *Statute Law Revision Bill 2006, Schedule.*

<sup>4</sup> *Statute Law Revision Bill 2006, Schedule.*