

## FUNCTIONS OF THE SUBORDINATE LEGISLATION SUB-COMMITTEE

The scrutiny functions as set out in section 21 of the *Subordinate Legislation Act 1994* are:

### 21. *Review of statutory rules by the Scrutiny Committee*

(1) The Scrutiny Committee may report to each House of the Parliament if the Scrutiny Committee considers that any statutory rule laid before Parliament—

- (a) does not appear to be within the powers conferred by the authorising Act;
- (b) without clear and express authority being conferred by the authorising Act—
  - (i) has a retrospective effect; or
  - (ii) imposes any tax, fee, fine, imprisonment or other penalty; or
  - (iii) purports to shift the onus of proof to a person accused of an offence; or
  - (iv) provides for the sub-delegation of powers delegated by the authorising Act;
- (c) appears to be inconsistent with the general objectives of the authorising Act;
- (d) makes unusual or unexpected use of the powers conferred by the authorising Act having regard to the general objectives of that Act;
- (e) contains any matter or embodies any principles which should properly be dealt with by an Act and not by subordinate legislation;
- (f) unduly trespasses on rights and liberties of the person previously established by law;

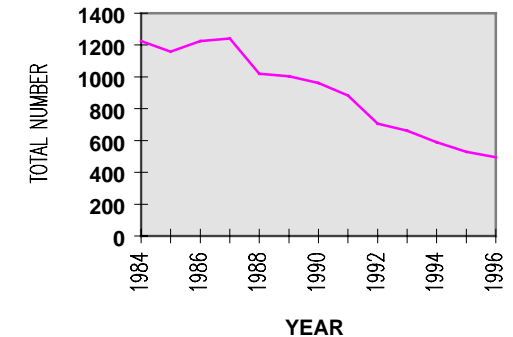
- (g) makes rights and liberties of the person unduly dependent upon administrative and not upon judicial decisions;
  - (h) is inconsistent with principles of justice and fairness;
  - (i) requires explanation as to its form or intention;
  - (j) has been prepared in contravention of any of the provisions of this Act or of the guidelines with respect to the statutory rule and the contravention is of a substantial or material nature;
  - (k) is likely to result in administration and compliance costs which outweigh the likely benefits sought to be achieved by the statutory rule.
- (2) A report of the Scrutiny Committee under this section may contain any recommendations that the Scrutiny Committee considers appropriate, including a recommendation that a statutory rule should be—
- (a) disallowed in whole or in part; or
  - (b) amended as suggested in the report.

**The scrutiny and control of delegated legislation is not a parlour game for the amusement or vindication of a small group of dedicated parliamentarians but an exercise necessary to protect the rights and liberties, livelihoods and welfare of ordinary men and women who are liable to be trampled under the weight of an insensitive if well-meaning bureaucracy. It is in the light of this fundamental axiom that all the procedures adopted for scrutiny and control must be tested.**

Second Commonwealth Conference on Delegated Legislation, 1983, Volume 1, p.7.

## Regulatory Reduction Study

### Total Number of Principal Regulations in Force



### Number of New Regulations Made

- 1. 1992 352 Regulations
- 2. 1993 278 Regulations
- 3. 1994 228 Regulations
- 4. 1995 197 Regulations
- 5. 1996 166 Regulations

## Recent Publications

1. November 1993: Report upon an Inquiry into the Operation of the Subordinate Legislation Act 1962.
2. May 1997: Ninth Report on Subordinate Legislation: Annual Report concerning Statutory Rules Series 1995 and 1996.
3. December 1996: *Abalone — Taking Stock*; Review of the Fisheries (Abalone) Regulations 1996; Information Paper.
4. September 1995: Eighth Report: Annual Report concerning Statutory Rules Series 1994
5. May 1995: Seventh Report; Environment Protection (Scheduled Premises and Exemptions) Regulations 1994.
6. March 1995: Sixth Report: Stock (Hormonal Growth Promotants Status Declarations) Regulations 1994.
7. November 1994: Fifth Report:: Annual Report concerning Statutory Rules Series 1993.
8. March 1994: Fourth Report: Land Tax (Further Amendment) Regulations 1993.
9. October 1993: Third Report: Annual Report concerning Statutory Rules Series 1992.
10. March 1993: Second Report: Port of Melbourne Authority (Transport, Handling and Storage of Dangerous Substances and Oils) Regulations 1992.
11. March 1993: First Report on Subordinate Legislation: Annual Report concerning Statutory Rules Series 1991.

## Substantive achievements of the Committee

In 1993, the Scrutiny of Acts and Regulations Committee conducted an inquiry into the operation of the **Subordinate Legislation Act 1962**. As a result, the current **Subordinate Legislation Act 1994** came into being. The 1994 Act emphasises

consultation prior to making, clarifies when a Regulatory Impact Statement (RIS) is required and maintains a 10-year lifespan for statutory rules. In 1995, comments of the Subcommittee led to the introduction by the Environment Protection Authority of a *Protocol for the Development of Regulations and the Preparation of Regulatory Impact Statements*.

Recently, the Subordinate Legislation Subcommittee has been engaged in close examination of regulations which introduced a new scheme controlling the harvesting of the valuable natural resource, abalone.

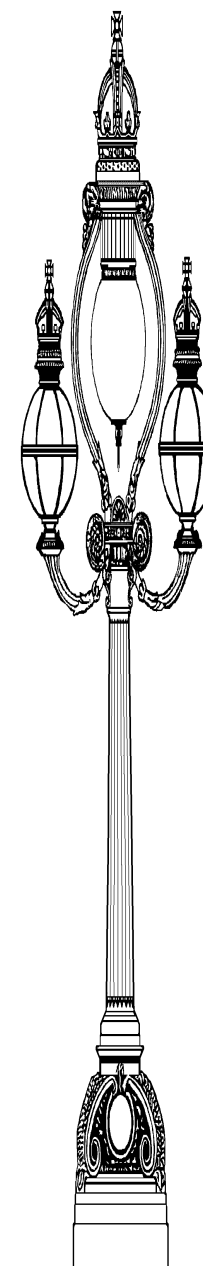
The work of the Subcommittee is widely varied as a quick look at the titles of each year's statutory rules will confirm. The Subcommittee examines rules administered by all Victorian Departments including, for example, those in the portfolios of Health, Treasury and Finance, Natural Resources and the Environment and Transport. It always pays careful attention to regulations which impose fee increases. The Subcommittee also examines the many court rules made annually.

## For further information contact the— Scrutiny of Acts and Regulations Committee

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## Subordinate Legislation Sub-Committee members—

Mr M H Thompson MP, Chairman  
Ms M Gillett, MP  
Hon P A Katsambanis, MLC  
Hon M T Luckins, MLC  
Hon D A Nardella, MLC



53<sup>rd</sup> PARLIAMENT

SCRUTINY OF ACTS  
AND REGULATIONS  
COMMITTEE

SUBORDINATE  
LEGISLATION  
SUBCOMMITTEE

Parliament of  
Victoria  
Australia