



SCRUTINY OF LEGISLATION
COMMITTEE

ALERT DIGEST



FOREWORD

The Chairman may wish to include a Foreword in the next report to Parliament (probably the alert digest) to deal with some/all of the following points:

- Welcome new Committee Members (if any) and recognise contributions of outgoing Members.
- Recognise work done for the Committee by the outgoing Chair.
- Formally announce that the Committee has appointed Professor Charles Sampford as Legal Adviser to the Committee. This appointment is currently temporary until the Committee is fully functioning in its new role.

Depending on the view of the chair some of the information from the attached biography may be included.

- Notify all recipients of the Alert Digest that it has been decided that the Alert Digest will continue to be provided to them free of charge (Unless the incoming Chair disagrees - the decision was based on the fact that due to the low number of potential subscribers it would not have been feasible)

TABLE OF CONTENTS

SECTION A - BILLS REPORTED UPON

1. PARLIAMENTARY COMMITTEES LEGISLATION AMENDMENT BILL 1996	1
BACKGROUND	1
DRAFTED IN A CLEAR AND PRECISE WAY? EXPLANATORY NOTES AND CLAUSES 3, 10, 12 AND 131	

SECTION B - COMMITTEE'S RESPONSE TO MINISTERIAL CORRESPONDENCE

2. COASTAL PROTECTION AND MANAGEMENT ACT 1995.....	3
BACKGROUND	3
SUFFICIENT REGARD TO RIGHTS AND LIBERTIES? - CLAUSES 52 AND 53	3
ADMINISTRATIVE POWER SUFFICIENTLY DEFINED? - CLAUSES 52 AND 53.....	4
ADMINISTRATIVE POWER SUBJECT TO APPROPRIATE REVIEW? - CLAUSE 54.....	4
COMPLIANCE WITH THE REQUIREMENTS REGARDING REGULATORY IMPACT STATEMENTS? - CLAUSE 47	5
ABROGATION OF A RIGHT TO SILENCE? - CLAUSE 75	6
SUFFICIENTLY CLEAR AND PRECISE DRAFTING? CLAUSES 12 AND 55.....	6
3. HORTICULTURAL LEGISLATION AMENDMENT ACT 1995	9
BACKGROUND	9
SUFFICIENTLY CLEAR AND PRECISE DRAFTING? - CLAUSE 7 (DIVISION 4)	9
4. LOTTERIES AMENDMENT ACT 1995	11
BACKGROUND	11
ADMINISTRATIVE POWER INSUFFICIENTLY DEFINED - CLAUSE 3.....	11
5. REVENUE LAWS AMENDMENT ACT (NO. 2) 1995	13
BACKGROUND	13
RETROSPECTIVE?	13
6. SOUTH BANK CORPORATION AMENDMENT ACT 1995.....	15
BACKGROUND	15
THE PREMIER'S RESPONSE TO THE COMMITTEE'S COMMENTS.....	15

APPENDICES

APPENDIX A - MINISTERIAL CORRESPONDENCE

Mr Bob Gibbs MLA, Former Minister for Primary Industries and Former Minister for Racing
Mr Keith De Lacy MLA, Former Treasurer of Queensland
Mr Wayne Goss MLA, Former Premier and Minister for Economic and Trade Development

APPENDIX B - SUBMISSIONS RECEIVED

Queensland Council for Civil Liberties

APPENDIX C - TERMS OF REFERENCE

APPENDIX D - MEANING OF "FUNDAMENTAL LEGISLATIVE PRINCIPLES"

1. PARLIAMENTARY COMMITTEES LEGISLATION AMENDMENT BILL 1996

Background

- 1.1 This Bill was introduced into the House by the Premier the Honourable Rob Borbidge MLA on 4 April 1996.
- 1.2 The objective of the bill as stated in the Explanatory Notes are:
- to amend the *Parliamentary Committees Act 1995* to introduce reforms to enhance the effectiveness of the Committee system;
 - to amend the *Criminal Justice Act 1989* to re-establish the Criminal Justice Committee;
 - to amend the *Electoral Act 1992* to require consultation with the Leader of each political party in the Legislative Assembly about the appointment of a person as a member of the Electoral Commission or senior electoral officer (electoral Commissioner or deputy electoral Commissioner).

Drafted in a Clear and Precise Way? Explanatory Notes and Clauses 3, 10, 12 and 13

- 1.3 Section 23(1) of the *Legislative Standards Act 1992* requires an explanatory note for a Bill to include information about the Bill in clear and precise language:
- (g) a brief statement of the extent to which consultation was carried out in relation to the Bill;*
- (h) a simple explanation of the purpose and intended operation of each clause of the Bill.*
- (2) If the explanatory note does not include the information mentioned in subsection (1), it must state the reason for non-inclusion.*
- 1.4 Clause 3 of the Bill provides that:
- 4A(1)** *A statutory committee must consist of an equal number of members nominated by³/₄*
- (a) the member who is recognised in the Legislative Assembly as the Leader of the House; and*
- (b) the member who is recognised in the Legislative Assembly as the Leader of the Opposition.*

(2) *The chairperson of a statutory committee must be the member nominated as chairperson by the member mentioned in subsection (1)(a).*

1.5 Clause 10 of the Bill provides that:

116.(1) The parliamentary committee must consist of an equal number of members nominated by³/₄

(a) the member who is recognised in the Legislative Assembly as the Leader of the House; and

(b) the member who is recognised in the Legislative Assembly as the Leader of the Opposition.

(2) The chairperson of the parliamentary committee must be the member nominated as chairperson by the member mentioned in subsection (1)(a)

1.6 Clauses 3 and 10 of the Bill do not make it clear whether the chairperson is to be one of the members of the committee, and this question is not addressed by the Explanatory Notes. Further, the Explanatory Notes are silent on the transitional position of an elected chairperson to a nominated chairperson as envisaged by the Bill.

1.7 The Committee seeks clarification from the Premier and recommends the tabling of revised Explanatory Notes to clarify the queried provisions in the Bill.

1.8 The Explanatory Notes further do not mention:

- (a) the requirement in clauses 12 and 13 to consult the Parliamentary Committee (defined as the Legal Constitutional and Administrative Review Committee in section 3 of the *Electoral Act 1992*) before the appointment of the chairperson or non-judicial appointee of the Electoral Commission;
- (b) the requirement in clause 13 to advertise for the application from suitably qualified persons for appointment as senior electoral officer (the electoral Commissioner or deputy electoral Commissioner); and
- (c) the reason for non-inclusion of a brief statement of the extent to which consultation was carried out in relation to the Bill (as required by section 23(2) of the *Legislative Standards Act 1992*).

1.9 The Committee refers the matter to the Premier for consideration and recommends that the Explanatory Notes be further refined to meet the requirements of section 23(1) and (2) of the *Legislative Standards Act 1992*.

2. COASTAL PROTECTION AND MANAGEMENT ACT 1995

Background

- 2.1 The Bill was introduced into the House on 19 October 1995 by the former Minister for Environment and Heritage, the Mr T A Barton MLA.
- 2.2 The Bill was reported upon by the Committee on pages 3 - 8 of Alert Digest No. 2 of 1995. The former Minister's reply to that Report, dated 9 November 1995, was published in Appendix A of Alert Digest No. 3 of 1995, however, due to the number of Bills reported upon in Alert Digest No. 3 of 1995 the Committee did not respond to Ministerial correspondence in that Alert Digest.
- 2.3 The Bill was passed by the Legislative Assembly on 2 November 1995 with some amendments. This correspondence is dealt with by the Committee in accordance with its practice of placing all correspondence received on the public record.

Sufficient Regard to Rights and Liberties? - Clauses 52 and 53

- 2.4 In Alert Digest No. 2 of 1995 the Committee expressed the view¹, with respect to Coastal Protection and Tidal Works Notices, that those safeguards set out in the Explanatory Notes relating to clauses 52 and 53 should be reflected in the Bill.
- 2.5 The former Minister responded (in part) as follows:
- It would not be possible to circumscribe all cases in the legislation. The Explanatory Notes merely provide examples of how the sections will operate. The appeal provisions found in clauses 95 - 100 provide adequate "safeguards" in all possible circumstances.*
- 2.6 In examining clauses 52 and 53, the Committee was particularly interested in the statements contained in the Explanatory Note (and quoted in Alert Digest No. 2 of 1995) that notices:
- will only be used where there is fault ... on the part of the landowner.*
- and that:
- negotiation with the land owner will be used as a first option in order to remedy the problem and avoid the issue of a notice.*
- 2.7 The Committee referred to these statements as "safeguards". They do not appear to be stated as an example of what may happen, but rather as a re-assurance of what action will be taken prior to the issuing of the relevant notice.

¹ Pages 3 - 4 of Alert Digest No. 2

2.8 The Committee would therefore have preferred these statements in the Explanatory Notes to stand as provisions of the law, which could have been relied upon for the protection of individual land owners adversely affected by the issuing of Coastal Protection and Tidal Works Notices.

2.9 The Committee notes that these clauses of the Bill were passed unamended.

Administrative power sufficiently defined? - Clauses 52 and 53

2.10 The Committee expressed some concerns that the administrative powers allowing the chief executive to give a notice, requiring action stated in the notice to be taken, may be insufficiently defined.

2.11 In response to the Committee's suggestions, the former Minister amended clauses 52 and 53 so that:

the works required and the time period for requiring those works to be performed under these clauses must be reasonable.²

2.12 The Committee thanks the former Minister for this amendment which overcomes concerns expressed in Alert Digest No. 2 of 1995.

Administrative power subject to appropriate review? - Clause 54

2.13 The Committee expressed the view that clause 54 (which provides that the chief executive may take the action required to rectify the problem identified in the notice if a person fails to comply with such a notice) may not have made sufficient provision in respect of:

- the time within which to lodge an appeal prior to action being taken by the chief executive; and
- the effect of a successful appeal on a debt imposed for the costs of action taken.

2.14 The Committee's concern on the first point was whether the chief executive could take the required action after the notice period had expired but before the period for the lodging of an appeal against such a notice is over.

2.15 The former Minister did not specifically address this point in his response to the Committee's concerns. He pointed out that the chief executive cannot take any action until the notice period expired and that a person could appeal against the giving of the notice or comply with the terms of the notice. The former Minister further informed the Committee that:

² Letter from the former Minister for Environment and Heritage, Mr T Barton MLA, dated 9 November 1995, at pg. 2.

*The matter is at the election of the person who has received the notice. A prudent person would probably first discuss the matter with the chief executive before taking court action.*³

- 2.16 With respect to the second point raised by the Committee, the former Minister provided the following information:

*If on appeal, the Court orders that the decision be set aside, the chief executive would not be able to recover the costs and expenses under clause 54(3) because it would follow from the Court's decision that a valid notice had not been given.*⁴

2.17 Whilst the Committee's concerns with respect to a debt imposed subsequent to a successful appeal have been addressed, the Committee continues to be concerned that the legislation, as it stands, may allow the chief executive to take action before the period for lodging an appeal against a notice is over.

2.18 The Committee notes that this section was passed unamended.

Compliance with the requirements regarding regulatory impact statements? - Clause 47

- 2.19 Clause 47(2) allows the Minister by written notice, to declare an area to be a control district only if it is considered that the area requires immediate protection or management, clause 47(4) provides that regulatory impact statement need not be prepared for the notice.

- 2.20 The Committee had expressed the view that the *Statutory Instruments Act 1992* already makes sufficient provision for exemption from the regulatory impact statement requirements in circumstances where urgent situations arise, therefore making an express exemption in other legislation unnecessary.⁵

- 2.21 The former Minister's response to the Committee's concern was that:

*The purpose of clause 47(4) is to remove doubt as to whether a regulatory impact statement is required under the *Statutory Instruments Act 1992*.*⁶

- 2.22 In the Committee's view, the example set out in s. 46(2) of the *Statutory Instruments Act 1992* already removes doubt as to whether a regulatory impact statement would be required in circumstances where subordinate legislation deals with urgent situations.

³ *ibid.*

⁴ *ibid.*

⁵ *Statutory Instruments Act 1992* s. 46(2)

⁶ Letter from the former Minister for Environment and Heritage, Mr T Barton MLA, dated 9 November 1995, at p. 2.

2.23 The Committee remains of the view that clause 47(4) of the Bill re-states a point which is already clear in the terms of s. 46(2) of the *Statutory Instruments Act 1992* and that the clause is therefore superfluous.

2.24 The Committee notes that this clause was passed unamended.

Abrogation of a right to silence? - Clause 75

2.25 The Committee noted that by making it an offence (carrying a \$300 fine) for a person to omit something from a statement made to an authorised person, that person's right to silence was being abrogated. The Committee therefore recommended that clause 75(1)(b) be deleted from the Bill.

2.26 In his response the former Minister expressed the view that:

*There is **nothing** in clause 75 that abrogates this fundamental right (to silence).*

Clause 75(1)(b) does not require a person to make a statement, however, if the person elects to do so, what he or she says must not be misleading by omission of a material particular.⁷

2.27 The former Minister informed the Committee that similar provisions are standard in Queensland legislation and illustrated the point by referring to various pieces of legislation both within his Department and on the statute book generally.

2.28 The Committee remains of the view that making it an offence for a person to omit relevant material particulars from an oral statement is an abrogation of the right to silence. In effect it means that if a person says anything at all, a person must reveal everything. The fact that similar provisions have been standard in Queensland legislation in the past does not alter the Committee's view. The Committee also notes that some of the legislation referred to predates the fundamental legislative principles which specifically refer to protection of the rights and liberties of individuals.

2.29 The Committee notes that this clause was passed unamended.

Sufficiently clear and precise drafting? Clauses 12 and 55

2.30 The Committee noted that recourse had to be had to other legislation and external material to determine the definition of several terms and phrases in the Bill. The Committee concluded that in instances where phrases with specified definitions are used in a Bill, the Committee is of the view that, within reason, the Bills should contain that definition. If the definition is commonly used, the Committee is of the view that such definitions should be included in the Acts Interpretation Act 1954.

⁷ *ibid* at p. 3.

2.31 The former Minister informed the Committee that:

The Committee's views have been referred to the Office of Queensland Parliamentary Counsel for consideration in the current review of the Acts Interpretation Act 1954.

2.32 As a result of the Committee's interest in this issue, the Committee will consider writing to the Attorney-General and Minister for Justice who is responsible for the administration of the *Acts Interpretation Act 1954*, requesting that the Committee be consulted in the course of the current review of this Act.

2.33 The Committee notes that this clause was passed unamended.

THIS PAGE LEFT INTENTIONALLY BLANK

3. HORTICULTURAL LEGISLATION AMENDMENT ACT 1995

Background

- 3.1 The Bill was introduced on 2 November 1995 by the former Minister for Primary Industries and former Minister for Racing Mr R J Gibbs MLA.
- 3.2 The Bill was reported upon by the Committee on page 19 of Alert Digest No. 3 of 1995 and the former Minister's letter in reply, dated 24 November 1995, is published in Appendix A of this Alert Digest, No. 1 of 1996.
- 3.3 The Bill was passed by the Legislative Assembly on 15 November 1995, unamended.

Sufficiently Clear and Precise Drafting? - Clause 7 (Division 4)

- 3.4 The Committee expressed concern that the existing procedure set out for the filling of casual vacancies was deleted by the Bill. The Committee expressed the view that the absence of express casual vacancy provisions may lead to ambiguity. It is not clear in the Bill whether there is an expectation that casual vacancies are going to be filled and if so, whether the s.13 procedure (which appears to be a complex, time consuming process) should apply.
- 3.5 The Committee also noted that it was aware of the view that from a drafting perspective, the Bill in its current form is regarded as sufficient because the procedures applicable in the case of a casual vacancy can be implied and the existing provisions for appointment applied.
- 3.6 The Minister responded as follows:

There is no need for the Act to set out a procedure for filling casual vacancies, because proposed section 15(1) states that a member of the authority is to be appointed for a term of not longer than 3 years. That is, the Act does not fix the actual term for which a member of the authority is to be appointed.

Therefore, if a casual vacancy occurs, another qualified person could be appointed as a member of the authority to fill the vacancy; and his or her term of appointment could be the balance of the term of his or her predecessor or, alternatively, it could be some other term of not more than 3 years. Whatever the length of the term of appointment however, the appointment procedure outlined in proposed section 13 will apply to the appointment (unless, of course, the member is being appointed as the chairperson of the authority).

3.7 The Committee thanks the former Minister for his response, however, it is not persuaded by the reasoning set out therein. The Committee remains of the view that in the absence of express casual vacancy provisions, the drafting of the section may be regarded as being insufficiently clear and precise.

3.8 The Committee notes that this section was passed by the House unamended.

4. LOTTERIES AMENDMENT ACT 1995

Background

- 4.1 The Bill was introduced on 2 November 1995 by the former Treasurer, Mr K E De Lacy MLA.
- 4.2 The Bill was reported upon by the Committee on pages 27 to 28 of its Alert Digest No. 3 of 1995 and the former Minister's response is published in Appendix A of this Alert Digest, No. 1 of 1996.
- 4.3 This Bill was passed by the Legislative Assembly on 15 November 1995 unamended.

Administrative Power Insufficiently Defined - Clause 3

- 4.4 The Committee expressed concern that the criteria for the exercise by the Board of the function specified in s. 13(2)(f) (*reviewing decisions made by the corporation that effect agents*) may be insufficiently defined. The Committee further commented that there do not appear to be any provisions in the existing Act or the proposed amendments explaining how a review of decisions of the Corporation which affect agents must be conducted.
- 4.5 The Committee then sought advice from the former Minister as to the mechanisms by which decisions made by the Corporation which affect agents will be reviewed, and the criteria upon which they will be based.
- 4.6 The former Minister's response dated 14 November 1995 is contained in full in the Appendix, however, an extract is reproduced here for convenience. The former Minister advised in part:

The corporation assesses applications for appointments of agents against a number of criteria. The criteria includes the following:

*location of proposed site/business
type and general appearance of the proposed site/business
servicing a locale
past business experience of applicant/s
corporate image
financial standing of applicant/s and
sales and terminal policy.*

In reviewing decisions made by the corporation not to enter into an agency agreement, the Golden Casket board will re-examine all the information which was available to the Corporation, together with any further information forwarded by the applicant and will re-consider the decision in accordance with the above-stated criteria. Additionally, the board will conduct its proceedings in accordance with the principles of natural justice and afford the applicant the ability to present the applicant's arguments to the Board.

- 4.7 The Committee thanks the former Minister for the provision of this information, however, some concerns over the structure of this provision persist. The Bill and the existing *Lotteries Act* of 1994 do not provide any details on the process of review anticipated to be carried out by the Board. The former Minister has mentioned criteria taken into account by the Corporation; that the Board can examine new information; that it can reconsider the decision of the Corporation and that the principles of natural justice will be complied with.
- 4.8 It is the Committee's view, however, that as this review constitutes the first avenue of appeal available for agents affected by decisions of the Corporation, more information on the review process is required. In particular it would have been preferable for the relevant section to stipulate the following:
- period within which an aggrieved agent should apply for review;
 - method by which an aggrieved agent should apply for review;
 - an entitlement to written reasons of the board;
 - a section specifying whether the Board may, on review:
 - ◊ confirm the corporation's decision being reviewed; or
 - ◊ set aside the decision of the Corporation and substitute another decision; or
 - ◊ set aside the decision and refer the matter back to the Corporation with appropriate directions.
- 4.9 It would appear from the former Minister's advice that the Board has the power to hear a matter *de novo* (afresh) on review. This could be expressly set out in the Bill.
- 4.10 As previously referred to, the former Minister stated that proceedings would be conducted in accordance with the principles of natural justice. The Committee notes that this point has become a requirement specifically set out in sections dealing with hearing procedures in other legislation and in fact it is expressly set out in the *Lotteries Act 1994* section dealing with appeals to the District Court. Under these circumstances it would appear reasonable to repeat that requirement in this section dealing with reviews by the Board. In particular, however, the Committee is of the view that it would be desirable to specify some of the contentious points which often arise in questions of procedural fairness, for example, whether persons seeking review may be legally represented.

5. REVENUE LAWS AMENDMENT ACT (NO. 2) 1995**Background**

- 5.1 The Bill was introduced on 2 November 1995 by the former Treasurer, Mr K E De Lacy, MLA.
- 5.2 The Bill was reported upon by the Committee on pages 33 and 34 of its Alert Digest No. 3 of 1995, and the former Minister's response in relation to those views is contained in his letter dated 14 November 1995, which is reproduced in full in the Appendix of this Alert Digest, No. 1 of 1996.
- 5.3 The Bill was passed by the Legislative Assembly on 15 November 1995.

Retrospective?

- 5.4 The Committee had noted that this amendment constitutes what is regarded by scrutiny committees in other jurisdictions as "legislation by press release". The Committee considered that this may conflict with the FLP requiring that legislation have sufficient regard to the institution of Parliament.
- 5.5 The former Minister expressed the following view on the Committee's concerns:

I share the concerns raised by the Committee.

However, there will be unusual instances, including this amendment, where a revenue Act is being amended for reasons of clarity and where the position of taxpayers is not altered by the amendment. There can be no element of surprise in this particular amendment. Duty has been paid on the marketable securities in question.

- 5.6 The Committee thanks the former Treasurer for his consideration of the Committee's comments and for his further elucidation of the point.**

THIS PAGE LEFT INTENTIONALLY BLANK

6. SOUTH BANK CORPORATION AMENDMENT ACT 1995

Background

- 6.1 The Bill was introduced on 2 November 1995 by the former Premier and former Minister for Economic and Trade Development, Mr W K Goss MLA.
- 6.2 The Committee commented on this Bill on pages 35 of 43 of its Alert Digest No. 3 of 1995. The former Premier responded to the Committee's concerns in a letter dated 30 November 1995 which is substantially incorporated into the Report below, and published in full in the Appendix of this Alert Digest, No. 1 of 1996.
- 6.3 The Bill was passed on 15 November 1995 with one amendment.

The Premier's Response to the Committee's Comments

- 6.4 In the course of its examination of the Bill the Committee noted several issues of concern, and several provisions which may breach fundamental legislative principles. The Committee concluded with a request that Parliament consider the addition of further safeguards and limitations to the provisions of the Southbank Corporation Amendment Bill.
- 6.5 Amongst the issues canvassed, the Committee expressed concern that persons may be excluded from the South Bank site under clause 37B by the giving of verbal directions not to re-enter the site for a period of 24 hours. The Committee further expressed the view that the provision of written notices for all 37B exclusions would provide desirable safeguards for both the issuers and receivers of exclusion orders. This recommendation of the Committee was accepted by the former Premier and an amendment was passed requiring written notices to be issued in respect of all exclusion orders regardless of the duration. The Committee thanks the former Premier for this amendment.
- 6.6 The Committee also addresses several other issues in relation to which the former Premier has provided further information in his letter of 30 November 1995. This information, which constitutes the bulk of the former Premier's letter, has been reproduced below:

The issues raised by the Committee are dealt with below.

Abrogation of Common Law Rights

The Committee notes in paragraphs 11.21 - 11.23 that the Bill will limit the common law rights to freedom of movement and association. The Government believes that the restrictions on common law rights for people excluded from the Parklands is justified on the basis that it protects the rights of the majority of users by ensuring that they are free to use the facility without fear of assault or intimidation. The exclusion powers in fact positively promote the common law rights referred to by the Committee, a view shared by the (then) Committee of Subordinate Legislation.

Notice of Court Applications

The Committee notes in paragraph 11.24 that the South Bank Corporation is not required to give notice of an application for a Court imposed exclusion order if it is sought in association with a proceeding for an exclusion offence. If the person objects to the South Bank Corporation making application for an exclusion order in this matter, they are free to seek to have consideration of the matter deferred to a later time.

Written Notices for all Exclusion Directions

I am pleased to advise that the recommendation of the Committee in paragraph 11.26 that all exclusion orders regardless of the duration should be documented by the issue of written notices has been accepted. An amendment to this effect was incorporated in the Bill during the Committee stage.

Review Processes

The limitations on the review process has attracted considerable criticism. The Government's overriding objective in formulating the review provisions was to ensure that they are reasonable and workable given the peculiar difficulties imposed by the very short duration of exclusion directions. Review provisions which would not allow hearings to be conducted quickly, and at minimal expense to the applicant, would be highly unlikely to be used. Allowing rules of evidence to apply and permitting legal representation, for either party, is incompatible with the objective of the review process.

Orders for Costs and Damages

The question of orders for costs or damages is again a matter in which the Government has sought to reconcile the need to ensure that review processes are quick and informal with the demands of natural justice. In this case, the Government believes that natural justice is better served by precluding orders for costs or damages because of the powerful disincentive it provides for people contemplating seeking a review hearing. It should also be noted that the only substantial damages which might result from an exclusion direction would be the loss of income for a person employed in the Parklands. Exclusion directions can be framed to allow people access to their place of work if necessary.

Definition of Exclusion Offences

The provisions of the Bill were drafted to ensure consistency with s. 164 of the Liquor Act which:

- has an identical definition of "Conduct causing a public nuisance" and*
- has a general offence provision which states that a "person must not be drunk in a public place".*

It should also be noted that exclusion of greater than 24 hours can only be imposed if the person has committed an exclusion offence, such as being drunk, and the security officer is of the opinion that an exclusion is justified because of the behaviour of the person. In respect of the 24 hour exclusions, police and security officers are trained to exercise their discretion in a reasonable manner. Security officers are also licensed under the Security Providers Act

In conclusion, I would like to point out that the action taken by the Government in regard to this matter has not been taken lightly. However, the action is seen as necessary and offers a practical response to a difficult problem. These powers provide the authorities with an alternative to heavy-handed criminal law options to deal with people creating a public nuisance. The improvement in the level of security incidents at the Parklands is testament to the effectiveness of the measures.

- | |
|--|
| <p>6.7 The Committee thanks the former Premier for his detailed consideration of the issues raised by the Committee and for the provision of the information set out above.</p> <p>6.8 The Committee notes that the Bill has been passed and has no further comment to make in relation thereto.</p> |
|--|

THIS PAGE LEFT INTENTIONALLY BLANK

