SCRUTINY OF LEGISLATION COMMITTEE

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SCRUTINY OF LEGISLATION COMMITTEE MEMBERSHIP

50TH PARLIAMENT, 1ST SESSION

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TABLE OF CONTENTS

SECTION A – BILLS REPORTED ON ***1***

1. DRUGS MISUSE (AMPHETAMINE OFFENCES) AMENDMENT BILL 2001 ..... ***1***

Background 1

Does the legislation have sufficient regard to the rights and liberties of individuals? *1*

♦ Clauses 4 to 7 inclusive 1

2. ENVIRONMENTAL PROTECTION LEGISLATION AMENDMENT BILL (NO. 2) 2001 ..... ***3***

Background *3*

Does the bill authorise the amendment of an Act only by another Act (by a "Henry VIII clause")? *3*

♦ Clause 3 3

3. GENE TECHNOLOGY BILL 2001 ..... ***5***

Background 5

Does the legislation have sufficient regard to the institution of Parliament? *5*

♦ The bill generally 5

Does the legislation have sufficient regard to the rights and liberties of individuals? *6*

♦ Clauses 32-37 inclusive, 187 and 192A 6

♦ Clauses 184 and 185 7

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification? *8*

♦ Clause 188 8

Does the bill allow the delegation of legislative power only in appropriate cases and to appropriate persons? *9*

♦ Schedule 3, Dictionary, Definitions of 'genetically modified organism' (GMO) and 'exempt dealing' 9

Does the legislation confer immunity from proceeding or prosecution without adequate justification? *10*

♦ Clause 67 10

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant? *11*

♦ Clauses 149 to 177 inclusive 11

4. HEALTH LEGISLATION AMENDMENT BILL 2001 ..... ***12***

Background 12

Does the legislation have sufficient regard to the rights and liberties of individuals? *12*

♦ Clauses 140, 141, 142 and 145 12

♦ Clause 29 (proposed sections 9-11G inclusive), clause 30 (proposed sections 12 – 17A inclusive) and clause 31 (proposed sections 17B – 17G inclusive) 14

♦ Clause 32 (proposed s.18 to 19D inclusive) 14

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant? 15

♦ Clauses 56 to 58 15

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification? 16

♦ Clause 60 (proposed s.153ZI) 16

♦ Clause 60 (proposed s.153ZM and 153ZN) 17

Does the legislation adversely affect rights and liberties, or impose obligations, retrospectively? 18

♦ Clause 77 (proposed s.405)......18

♦ Clauses 110 and 119 (proposed s.228A to 228G inclusive), clause 131 (proposed s.313A to 313G)......18

♦ Clauses 234 and 235 19

5. PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 2001 21

Background...... 21

Does the legislation have sufficient regard to the rights and liberties of individuals? 21

♦ Clauses 32 and 33 21

♦ Clause 54 (proposed s.25, definition “disqualifying offence”) 22

Does the bill authorise the amendment of an Act only by another Act (by a “Henry VIII clause”)?.... 23

♦ Clause 37 (proposed s.2A(3)) 23

Is the legislation consistent with the principles of natural justice?...... 24

♦ Clause 46 24

6. PROPERTY AGENTS AND MOTOR DEALERS AMENDMENT BILL 2001...... 26

Background...... 26

SECTION B– COMMITTEE RESPONSE TO MINISTERIAL CORRESPONDENCE 28

7. ANIMAL CARE AND PROTECTION BILL 2001...... 28

Background...... 28

Does the bill sufficiently subject the exercise of delegated legislative power to the scrutiny of the Legislative Assembly?...... 28

♦ Clauses 14 and 49 28

Does the legislation have sufficient regard to the rights and liberties of individuals? 29

♦ Clauses 17, 18, 19, 21, 22, 25, 26, 27, 28, 29, 30, 31, 35, 36, 37, 51, 91, 92 and 187 29

♦ Clauses 182 to 184 inclusive 29

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant?...... 30

♦ Clauses 107 to 113 inclusive and 122 to 170 inclusive 30

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification? 31

♦ Clauses 181 and 209 31

♦ Clause 179 32

Is the legislation unambiguous and drafted in a sufficiently clear and precise way? 32

♦ Clause 50, definition of ‘Conviction’ 32

♦ Clause 12(1)(c) 33

Does the legislation provide appropriate protection against self-incrimination? 33

♦ Clauses 139 and 169 33

8. PENALTIES AND SENTENCES (NON-CONTACT ORDERS) AMENDMENT BILL 2001 34

Background...... 34

Does the legislation have sufficient regard to the rights and liberties of individuals? 34

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification? 34

Is the legislation unambiguous and drafted in a sufficiently clear and precise way? *34*

APPENDIX A – MINISTERIAL CORRESPONDENCE ***37***

APPENDIX B – TERMS OF REFERENCE ***38***

APPENDIX C – MEANING OF "FUNDAMENTAL LEGISLATIVE PRINCIPLES" ***39***

APPENDIX D – DETAILS OF BILLS CONSIDERED BY THE COMMITTEE ***40***

BILLS EXAMINED BUT NOT REPORTED ON [*]

NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2001

[*] These bills were considered to raise no issues within the committee's terms of reference.

SECTION A

BILLS REPORTED ON

Note: s.14B of the *Acts Interpretation Act 1954* provides that consideration may be given to "extrinsic material" in the interpretation of a provision of an Act in certain circumstances. The definition of "extrinsic material" provided in that section includes:

... a report of a committee of the Legislative Assembly that was made to the Legislative Assembly before the provision was enacted[1]

Matters reported on to Parliament by the Scrutiny of Legislation Committee in its alert digests prior to the enactment[2] of a provision may therefore be considered as extrinsic material in its interpretation.

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1 Section 14B(3)(c) Acts Interpretation Act 1954.

2 The date on which an Act receives royal assent (rather than the date of passage of a bill by the Legislative Assembly) s.15 Acts Interpretation Act 1954.

SECTION A – BILLS REPORTED ON

1. DRUGS MISUSE (AMPHETAMINE OFFENCES) AMENDMENT BILL 2001

Background

1. Mr Jeff Seeney MP, Shadow Minister for Natural Resources and Mines, Shadow Minister for Police and Corrective Services and member for Callide, introduced this bill into the Legislative Assembly as a private member's bill on 11 September 2001.

2. The object of the bill, as indicated by the Explanatory Notes, is:

> *to amend the Drugs Misuse Act 1986 and the Drugs Misuse Regulation 1987, specifically with regard to the classification of amphetamines as a dangerous drug.*

Does the legislation have sufficient regard to the rights and liberties of individuals?[3]

♦ **Clauses 4 to 7 inclusive**

3. The primary purpose of this bill is to reclassify amphetamines, which are presently 'Schedule 2' Dangerous Drugs under the *Drugs Misuse Regulation 1987*, as 'Schedule 1' Dangerous Drugs. The bill achieves that result by directly amending the 1987 Regulation, which is made under the *Drugs Misuse Act 198*6.

4. As the Explanatory Notes point out, the maximum penalties prescribed for various offences involving 'Schedule 1' Dangerous Drugs are somewhat higher than those for 'Schedule 2' Dangerous Drugs.

5. The principal differences are as follows:

- Trafficking in a 'Schedule 1' Dangerous Drug carries a maximum penalty of 25 years imprisonment, whilst that for a 'Schedule 2' Dangerous Drug is 20 years (s.5, *Drugs Misuse Act 1986*)

- Persons unlawfully supplying 'Schedule 1' Drugs are, depending upon the circumstances, liable to maximum penalties of 25 and 20 years, whilst the corresponding offences for 'Schedule 2' Drugs carry maximum penalties of 20 and 15 years. (s.6)

- Offences involving the unlawful production of a 'Schedule 1' Drug carry maximum penalties of 20 or 25 years, whilst for 'Schedule 2' Drugs the maximum penalties are 15 or 20 years. (s.8)

- Publishing instruction about the way to produce dangerous drugs carries a maximum penalty of 25 years for 'Schedule 1' Drugs, and 20 years for 'Schedule 2' Drugs. (s.8A)

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3 Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

- Possession of a 'Schedule 1' Dangerous Drug carries maximum penalties of between 20 and 25 years, whilst those for 'Schedule 2' Dangerous Drug are again 15 and 20 years.

6. The effect of this bill is less substantial than that of the *Drugs Misuse Amendment Bill 2000*, on which the committee has previously reported.[4] However, as mentioned above and as detailed in the Explanatory Notes, this bill significantly increases the maximum periods of imprisonment associated with various dealings involving amphetamines.

7. In relation to this matter, the Explanatory Notes state:

> *The proposed upgrade of amphetamines to a Schedule 1 Dangerous Drug reflects the increasingly serious problem of amphetamine use in Queensland, as well as the significant health problems and social costs generated by the drug. The upgrade would place amphetamines in the same category as other "hard" drugs such as heroin and cocaine and serve to increase the disincentive to traffic, supply, produce and possess the drug while increasing penalties for offences involving the drug.*

8. The committee refers to Parliament the question of whether, under the circumstances, the bill's legislative reclassification of amphetamines into a category carrying higher maximum imprisonment penalties for offences, has sufficient regard for the rights of persons convicted of such offences.

[4] See Alert Digest No. 6 of 200 at pages 1 – 2. That bill brought within the category of Dangerous Drugs under the *Drugs Misuse Act 1986* and *Drugs Misuse Regulation 1987* certain performance and image-enhancing drugs, which had previously been dealt with under another, less stringent, statutory regime (that of the *Health (Drugs and Poisons) Regulation 1996).*

2. ENVIRONMENTAL PROTECTION LEGISLATION AMENDMENT BILL (NO. 2) 2001

Background

1. The Honourable Dean Wells MP, Minister for Environment, introduced this bill into the Legislative Assembly on 11 September 2001.

2. The object of the bill, as indicated by the Minister in his Second Reading Speech, is:

> *…to further extend the co-operative relationship between the Environmental Protection Agency and Local Governments, in relation to appropriate management of waste. The bill also amends the Environmental Protection Act 1994 to facilitate reuse and recycling of waste.*

Does the bill authorise the amendment of an Act only by another Act (by a "Henry VIII clause")?[5]

♦ **Clause 3**

3. Section 13(1) of the *Environmental Protection Act 1994* contains a general definition of 'waste'.

4. Clause 3 of this bill qualifies that general definition by inserting in s.13(1) the words 'other than a resource approved under subsection (4)'. Clause 3 then inserts a new s.13 (4) in the following terms:

> ***(4)*** *The administering authority may approve a resource, or a stated type of resource, for subsection (1) if it considers the resource, or type of resource, has a beneficial use other than disposal.*

5. Clause 10 of the bill authorises the making of regulations about various aspects of the approvals referred to in new s.13(4), including:

- procedures for applying;
- matters that must be considered in deciding the application;
- conditions that may be imposed on approval; and
- amendment, cancellation and suspension of approvals.

6. It appears to the committee that new s.13(4) constitutes a "Henry VIII clause" within the definition adopted by the committee.[6] This occurs because the provisions of s.13(1) can, in certain circumstances, be displaced by the granting of an "approval" under new s.13(4).[7]

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[5] Section 4(4)(c) of the *Legislative Standards Act 1992* provides that whether a bill has sufficient regard to the institution of Parliament depends on whether, for example, the bill authorises the amendment of an Act only by another Act.

[6] See Scrutiny of Legislation Committee's report, *The Use of "Henry VIII clauses" in Queensland Legislation*, January, 1997.

7. The committee's definition of "Henry VIII clauses" does not include situations where a statutory definition may be expanded by resort to subordinate legislation or Executive action.[8] However, the effect of new s.13(4) is to exclude resources from the definition of waste in specified circumstances, and it therefore, in the committee's view, does constitute a "Henry VIII clause".

8. The clause does not appear to fall within any of the categories which the committee regards as potentially acceptable uses of "Henry VII clauses", and the committee would therefore classify new s.13(4) as a "generally objectionable" "Henry VIII clause". The only such category which it might conceivably fall within is that where there is a need for immediate Executive action, as it is possible the classification of resources as "waste" may be something which needs to be considered on a case-by-case basis in a short time-frame.

9. The committee considers that cl.3 (proposed s.13(4)) is a "Henry VIII clause". The committee generally does not endorse the use of such provisions.

10. The committee seeks information from the Minister as to whether the circumstances in which proposed s.13(4) would be employed are such as would require urgent Executive action.

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7 The Committee's definition of "Henry VIII clauses" includes situations where the displacement occurs as a result of Executive action rather than by subordinate legislation.

8 See the committee's report at pages 30 – 31.

3. GENE TECHNOLOGY BILL 2001

Background

1. The Honourable Paul Lucas MP, Minister for Innovation and Information Economy, introduced this bill into the Legislative Assembly on 11 September 2001.

2. The policy objectives of the bill, as indicated by the Explanatory Notes, are to:

   - *provide the Queensland major component of a national scheme established by States, Territory and Commonwealth legislation to protect the public health and safety of people and to protect the environment from risks associated with gene technology;*
   - *achieve a regulatory framework that efficiently and effectively operates in conjunction with other regulatory schemes relevant to GMOs and genetically modified products (GM Products) (e.g. schemes for the regulation of food, agricultural and veterinary chemicals, therapeutic goods, and industrial chemicals);*
   - *establish an independent national regulator to scientifically assess dealings in gene technology.*

Does the legislation have sufficient regard to the institution of Parliament?[9]

♦ **The bill generally**

3. The bill is intended to form part of national scheme legislation.[10]

4. National schemes of legislation have been a source of considerable concern, both to the committee and to its interstate and Commonwealth counterparts.[11] These schemes take a number of forms[12] and the objection to them is greatest when they involve pre-determined legislative provisions which are either included in the bill introduced into Parliament or which the bill incorporates by adopting Commonwealth or interstate legislation. The committee has considered such scenarios on a number of occasions.[13]

5. The scheme to which the current bill gives effect appears to involve enactment by the Commonwealth and other States of legislation which is similar in form to this bill.

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9 Section 4(2)(b) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the institution of Parliament.

10 The committee uses this term to describe broadly:
any and all methods of developing legislation, which is –
- uniform or substantially uniform in application;
- in more than one jurisdiction, several jurisdictions or nationally.

11 The relevant issues are canvassed in detail in *Scrutiny of National Schemes of Legislation – A Position Paper of Representatives of Scrutiny of Legislation Committees through Australia,* October 1996.

12 See Annex 1 to the Position Paper. The current bill appears to be an example of the "Complementary Commonwealth-State" or "Co-Operative Legislation" model.

13 See, for example, Alert Digest No 5 of 1997 at pp14 and 13-38, Alert Digest No 7 of 1998 at pp5-7.

6. The committee notes, however, that many clauses of this bill are footnoted to indicate that the clause differs from the corresponding clause of the Commonwealth legislation in some respects. This goes at least some way towards ameliorating the committee's greatest concern in relation to national scheme legislation, namely, that its form is predetermined by an agreement amongst the various Executive Governments and is presented to Parliament as a 'given'.

7. This bill forms part of national scheme legislation. Many elements of such schemes have been identified by scrutiny committees nationally as undermining the institution of Parliament.

8. The committee notes however that the bill is not identical to the corresponding Commonwealth legislation, and appears to incorporate Queensland drafting practices as well as modifications addressing various Queensland-specific issues.

9. The committee refers to Parliament the question of whether the bill has sufficient regard to the institution of Parliament.

Does the legislation have sufficient regard to the rights and liberties of individuals?[14]

♦ **Clauses 32-37 inclusive, 187 and 192A**

10. The bill contains a number of provisions creating offences punishable by substantial maximum penalties. They are as follows:

- a person must not deal with a GMO without a licence with full knowledge or recklessness (cl.32)
- a person must not deal with a GMO without a licence (cl.33)
- a person must not breach conditions of a GMO licence with full intention and knowledge or recklessness (cl.34)
- a person must not breach conditions of a GMO licence (cl.35)
- a person must not breach conditions on the GMO register (cl.36)
- a person must not undertake a notifiable low risk dealing other than in accordance with the regulations (cl.37)
- confidential commercial information must not be disclosed (cl.187)
- a person must not interfere with dealings with GMOs (cl.192A).

10. The following features of these provisions should be noted:

[14] Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

- the offences under cls.32, 34 and 192A are indictable offences (that is, offences of a more serious nature which are normally tried before a judge and jury)
- the maximum penalties provided are quite substantial, in particular, 5 years imprisonment or 2,933 penalty units ($219,975) or 2 years imprisonment or 733 penalty units ($54,9750) (cls.32 and 34), 2 years imprisonment or 176 penalty units ($13,200) (cls.187 and 192A)
- clauses 32 and 34 create offences essentially identical to cls.33 and 35 respectively, but which carry much higher maximum penalties on the basis that the person has knowledge of a number of relevant facts
- a number of the provisions create offences which can be committed without intent on the part of the person in relation to some or all relevant matters (cls.33, 35 and 187)[15]
- persons may be subject to the high penalties imposed by cls.32 and 34 even if they lack knowledge of the relevant matters but nevertheless are 'reckless' as to their existence.

11. The committee notes that cls.32-37 inclusive, 187 and 192A create various offences. Some of these offences are indictable offences and/or are punishable by quite substantial maximum penalties including imprisonment. Some offences do not require proof of intent.

12. The committee draws to the attention of Parliament the existence of these quite significant offence provisions.

♦ **Clauses 184 and 185**

13. Clauses 184 and 185 of the bill establish a process under which a person may apply to the regulator for a declaration that particular information, relevant to activities governed by the bill, is 'confidential commercial information'. If the regulator is satisfied as to various grounds set out in cl.185, the regulator must declare the information to be confidential commercial information, unless satisfied that the public interest in disclosure outweighs the prejudice the disclosure would cause to any person.

14. Clause 187 provides that a person who obtains 'confidential commercial information' through performing functions under the bill, or because of a disclosure made to them by someone so doing, must not disclose that information other than in accordance with a number of stipulated exceptions. A maximum penalty of 2 years imprisonment or 176 penalty units ($13,200) is provided.

15. 'Confidential commercial information' is:

- a trade secret
- other information that has a commercial or other value that would or might be destroyed or diminished by disclosure, or

[15] The Explanatory Notes confirm that this is the case in relation to cls.33 and 35. The Explanatory Notes state that they 'enable strict liability to apply', and point out that a smaller penalty is applicable in these cases 'without the need to establish all of the fault elements of the offence'.

- other information concerning the lawful commercial or financial activities of a person or organisation which, if disclosed, could unreasonably affect that person or entity (cl.185).

16. The committee is generally supportive of any provisions of a bill which promote the right to privacy. Moreover, in the present context the conferral of this form of protection appears to constitute appropriate recognition of the rights of the persons entitled to the trade secret, or to whom the relevant information relates.

17. The committee notes that cls.184-187 inclusive enable certain commercial information to be subjected to statutory obligations of confidentiality.

18. In the circumstances of this bill, the committee considers these provisions to be reasonable.

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification?[16]

♦ **Clause 188**

19. In relation to proceedings for an offence under the bill, cl.188 effectively affixes upon a person (other than a body corporate) the intent of his or her employee or agent, 'unless (the person) establishes that he or she took reasonable precautions and exercised proper diligence to avoid the conduct (of the employee or agent)'.

20. Clause 188, which is in a form similar to that employed in many bills examined by the committee, effectively reverses the onus of proof, since under the law a person generally cannot be found guilty of an offence unless he or she has the necessary intent.

21. The committee considers that cl.188 effectively reverses the onus of proof, in proceedings for offences against the bill's provisions, by requiring persons other than bodies corporate to establish that they did not have the intent exhibited by their employee or agent.

22. Whilst the difficulties of determining liability in certain circumstances are appreciated, the committee as a general rule does not endorse such provisions.

23. The committee refers to Parliament the question of whether cl.188 contains a justifiable reversal of the onus of proof.

[16] Section 4(3)(d) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

Does the bill allow the delegation of legislative power only in appropriate cases and to appropriate persons?[17]

♦ **Schedule 3, Dictionary, Definitions of 'genetically modified organism' (GMO) and 'exempt dealing'**

24. The term 'genetically modified organism' (GMO) is, in the committee's view, pivotal to the operation of the bill.

25. The term is defined in the Dictionary to the bill as follows:

> *(a) an organism that has been modified by gene technology;*
>
> *(b) an organism that has inherited particular traits from an organism (the "**initial organism**"), being traits that occurred in the initial organism because of gene technology;*
>
> *(c) anything declared under a regulation to be a genetically modified organism, or that belongs to a class of things declared under a regulation to be genetically modified organisms;*
>
> *but does not include—*
>
> *(d) a human being, if the human being is an organism mentioned in paragraph (a) only because the human being has undergone somatic cell gene therapy; or*
>
> *(e) an organism declared under a regulation not to be a genetically modified organism, or that belongs to a class of organisms declared under a regulation not to be genetically modified organisms.*

26. Paragraphs (a) and (b), whilst broadly framed, provide concrete definitions of things which are 'genetically modified organisms'. Paragraph (d) likewise defines in concrete terms one category of things (human beings) which do not fall within the definition. However, paragraph (c) enables things to be declared by regulation to be 'genetically modified organisms', and paragraph (e) enables things to be declared by regulation not to be 'genetically modified organisms'.

27. It is of course desirable that such an extremely important term be defined with as much certainty and particularity as possible, and the capacity to include or exclude specific things by means of regulation undermines that goal.

28. The term 'exempt dealing', which is also important though in the committee's view less so than 'GMO', is defined in the Dictionary in such a way that its meaning is to be entirely determined by regulations.

29. Naturally, this also gives rise to difficulties of the type mentioned above.

30. In relation to both definitions, the Explanatory Notes state:

[17] Section 4(4)(a) of the Legislative Standards Act 1992 provides that whether a bill has sufficient regard to the institution of Parliament depends on whether, for example, the bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

> *Although this approach* (the use of regulations in the relevant definitions) *may raise concerns that the fundamental effect of the Act may be amended by the underlying regulations, this approach has been adopted to reflect the fact that gene technology is a relatively young area of scientific endeavour and, as a result, knowledge and expertise in relation to the technology is subject to a change. As the science develops dealings that become common will change, thus altering the understanding of what dealings should be considered "exempt". Similarly, as the science develops new applications may mean the definition of "gene technology" and "genetically modified organism" may require alteration. Further, as the gene technology regulatory scheme is a national system for Queensland (and other jurisdictions) to ensure legislation is as consistent as possible, the power to alter certain definitions via regulation rather than amendment of an Act was considered appropriate. Finally, the power to change definitions via regulation has been limited to certain key areas so that, in the event of an emergency, necessary change can be made by all jurisdictions expeditiously.*

31. In relation to the definition of 'GMO', the Explanatory Notes state:

> *The ability to prescribe things to be genetically modified organisms in regulations (under (c) of the definition of a GMO) ensures there is capacity to regulate GM products that are not regulated by existing regulatory agencies. An example of such a 'gap' product is GM stockfeed.*

32. The committee notes that a pivotal definition ('genetically modified organism' (GMO)) and an important definition ('exempt dealings') are to be determined, in the first case partially and in the second wholly, by means of regulations. The committee considers this detracts from the certainty of the definitions.

33. The committee notes that the Explanatory Notes cite various factors in support of the use of regulations.

34. The committee refers to Parliament the question of whether, in the circumstances, the conferral of a power to make such regulations is appropriate.

Does the legislation confer immunity from proceeding or prosecution without adequate justification?[18]

♦ **Clause 67**

35. Clause 65 provides that it is a condition of a licence that the licence holder inform the regulator if the former becomes aware of additional information about risks to health and safety of people or the environment associated with dealings authorised by the licence, or any contraventions of the licence or unintended effects. Clause 66 provides that 'a person covered by a licence' may inform the regulator if that person becomes aware of any such matters.

36. Clause 67 provides as follows:

[18] Section 4(3)(h) of the Legislative Standards Act 1992 provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not confer immunity from proceeding or prosecution without adequate justification.

67 Protection of persons who give information

A person does not incur any civil liability for loss, damage or injury of any kind suffered by another person because the first person gave information to the regulator under section 65 or 66.

37. The committee notes that cl.67 confers immunity from civil proceedings in relation to certain information given by persons to the regulator.

38. In the circumstances, the committee considers this indemnity to be appropriate.

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant?[19]

♦ **Clauses 149 to 177 inclusive**

39. Part 11 (cls.149-177 inclusive) of the bill confers upon inspectors various powers for monitoring compliance with the bill's requirements and for investigating offences.

40. Clause 152 confers powers of entry which extend somewhat beyond situations where the occupier of premises consents or where entry is authorised by warrant, in that it permits entry to a licence holder's place of business which is open for business or for entry, or required to be open for inspection under the licence.

41. Moreover, cl.158 confers a general power of entry where an inspector reasonably suspects a particular thing (not complying with the bill) may be found, and considers it necessary to exercise the entry power to avoid an imminent risk of death, serious illness, serious injury or to protect the environment. The section confers a range of post-entry powers exercisable in those circumstances. Clause 153 confers a range of post-entry powers which may be exercised where entry has been achieved pursuant to cl.152. Some such powers are only exercisable if entry has been effected under that section pursuant to a warrant.

42. Whilst the various powers conferred by the bill upon inspectors are significant, they are in some ways less extensive than those conferred by other bills which the committee has examined, particularly in relation to bills involving public health, public safety and other similar issues.

43. The committee notes that the bill confers on inspectors powers of entry which extend significantly beyond situations where the occupier consents or a warrant has been obtained. The committee notes that once entry has been effected, the bill confers on inspectors a range of additional powers.

44. The committee draws to the attention of Parliament the nature and extent of these entry and post-entry powers.

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[19] Section 4(3)(e) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

4. HEALTH LEGISLATION AMENDMENT BILL 2001

Background

1. The Honourable Wendy Edmond MP, Minister for Health and Minister Assisting the Premier on Women's Policy, introduced this bill into the Legislative Assembly on 11 September 2001.

2. The object of the bill, as indicated by the Explanatory Notes, is:

   to make amendments to the following Health portfolio Acts:

   - *Food Act 1981*
   - *Health Act 1937*
   - *Health Practitioners (Professional Standards) Act 1999*
   - *Health Practitioner Registration Acts* [20]
   - *Mental Health Act 2000*
   - *Private Health Facilities Act 1999*
   - *Queensland Institute of Medical Research Act 1945*
   - *Transplantation and Anatomy Act 1979*

Does the legislation have sufficient regard to the rights and liberties of individuals?[21]

♦ **Clauses 140, 141, 142 and 145**

3. These clauses amend the *Occupational Therapists Registration Act 2001*. That Act is one of twelve profession-specific statutes governing the registration of practitioners in various health professions.[22]

4. When the bills for the various Acts were first introduced into the Legislative Assembly on 5 September 2000,[23] the committee reported primarily on the *Occupational Therapists Registration Bill*, as it was apparently the 'template' bill upon which all 12 were based. When the bills were re-introduced into Parliament earlier this year the committee adopted the same approach in relation to its report.[24] It is appropriate to adopt the same approach on

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[20] Chiropractors Registration Act 2001; Denbtal Practitioners Registration Act 2001; Dental Technicians and Dental Prosthetists Registration Act 2001; Medical Practitioners Registration Act 2001; Medical Radiation Technologists Registration Act 2001; Occupational Therapists Registration Act 2001; Optometrists Registration Act 2001; Osteopaths Registration Act 2001; Pharmacists Registration Act 2001; Physiotherapists Registration Act 2001; Podiatrists Registration Act 2001; Phychologists Registration Act 2001; and Sppech Pathologists Registration Act 2001.

[21] Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

[22] See footnote 21 above.

[23] They subsequently lapsed when Parliament was dissolved on 23 January 2001 but were re-introduced in identical form on 22 March 2001 and passed on 1 May 2001.

[24] See Alert Digest No. 1 of 2001 at p.50.

this occasion, as the changes made by this bill to all 12 registration Acts are essentially identical. The comments which follow may therefore be taken as representing the committee's views in relation to all clauses of this bill which amend the Acts in question.

5. The *Occupational Therapists Registration Act 2001* presently enables the registering board to have regard to offences previously committed by the applicant, and for this purpose to obtain written reports about applicants' criminal history from the commissioner of the police service.

6. The bill tightens the requirements in relation to applicants, in the following ways:

- applicants may now themselves be required to reveal their criminal history in their application form

- in relation to information about criminal history supplied to the board (both by the applicant and by the commissioner of the police service) the "rehabilitation period" provisions of the *Criminal Law (Rehabilitation of Offenders) Act 1986* will no longer apply. This means that old offences, as well as more recent ones, must be disclosed by both sources

- although not expressly stated, it clearly follows from these provisions that in actually considering the applicant's criminal history, the board may have regard to the old offences as well as the more recent ones

- for all of the above purposes the definition of 'criminal history' has also now been broadened to include convictions as well as <u>charges</u> which did not lead to convictions.

7. As mentioned, these amendments will self-evidently make the task of applicants obtaining registration somewhat more difficult for certain applicants.

8. In relation to these provisions, the Explanatory Notes state:

> *In effect, this will mean that for the purposes of the Acts, information about, and consideration of, a person's criminal history will encompass all convictions and charges, regardless of when they may have occurred. The boards' capacity to consider a person's full criminal history is consistent with the objectives of the health practitioner legislation to protect the public. Many registered health practitioners have professional relationships with vulnerable patients, who may be susceptible to physical abuse, mental abuse or unjustifiable fees and claims. Once the provisions of this Bill are enacted, registered health practitioners will be subject to the same level of scrutiny that currently applies to teachers, persons working with children and young people, and persons associated with the conduct of retirement villages.*

9. The committee refers to Parliament the question of whether the provisions of the bill authorising and requiring disclosure and consideration of charges, and of old convictions which would otherwise have been protected from disclosure by *the Criminal Law (Rehabilitation of Offenders) Act*, have sufficient regard to the rights of those applicants affected by them.

♦ **Clause 29 (proposed sections 9-11G inclusive), clause 30 (proposed sections 12 – 17A inclusive) and clause 31 (proposed sections 17B – 17G inclusive)**

10. Clauses 29 and 30, which amend the *Food Act 1981*, insert a number of provisions which create offences in relation to food.

11. The penalties imposed for breach of some of these provisions are quite substantial, ranging up to 1,350 penalty units ($101,250) or 2 years imprisonment. Moreover, it is not necessary in most cases for any intent on the part of the wrongdoer to be proved (proposed s.17E excludes the operation of ss.23 and 24 of the *Criminal Code*). Further, even in relation to some of the more serious offences a person can be liable if they ‘ought reasonably to know’ that their action or lack of action will, or is likely to, produce a result stipulated in the offence provision.

12. Overall, the offence provisions inserted by cls.29 and 30 are quite stringent, although the committee notes that proposed s.17D provides for a defence of ‘due diligence’. This in effect requires a person to prove that they exercised all due diligence to prevent the commission of the offence.

13. The committee notes that cls.29 and 30 of the bill create a number of offences, many of which do not require any element of intent or can be committed in circumstances where the behaviour is simply negligent. Moreover, the committee notes that substantial maximum penalties, including imprisonment, are imposed for breach of some of the relevant provisions.

14. The committee refers to Parliament the question of whether, in the circumstances, the provisions of cls.29, 30 and 31 have sufficient regard to the rights of persons who may be charged with the relevant offences.

♦ **Clause 32 (proposed s.18 to 19D inclusive)**

15. Clause 32 inserts new ss.18 – 19D inclusive, which confer upon the chief executive very extensive emergency powers. These include prohibiting the cultivation, harvesting, obtaining, advertising for sale of and recalling from sale of, particular foods or types of food, the impounding, destruction or other disposal of such food, and the absolute prohibition of the carrying on of specific food-related activities (proposed s.19).

16. As mentioned, these powers are extremely far-reaching and could self-evidently impact severely upon the rights of a range of persons involved in the production and sale of food.

17. It is therefore not surprising that the relevant powers can only be exercised if the chief executive:

> *... has reasonable grounds to believe that the making of the order is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health* (proposed s.18).

18. In addition, proposed s.19C provides that a person bound by such an order who suffers loss because of it may apply to the chief executive for compensation if there were in fact

insufficient grounds for the making of the order. However, compensation would not appear to be payable in other circumstances.

19. The committee notes that cl.32 provides the chief executive with very extensive emergency powers where there is the possibility of a serious danger to public health, and that these powers would impact adversely upon persons involved in the production and sale of food.

20. The committee refers to Parliament the question of whether, in the circumstances, the conferral of these extensive powers is justified.

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant?[25]

♦ **Clauses 56 to 58**

21. Clauses 56 to 58 are amongst a number of provisions of the bill which amend the *Health Act 1937*. They insert proposed ss.144 – 153Y inclusive, which confer upon inspectors powers of entry which extend beyond situations where the occupier consents or where entry is authorised by warrant. In particular, entry can be effected to “public places” when they are open to the public, and to a place where controlled drugs, restricted drugs or poisons are kept by the holder of an “endorsement”, at times when the place is open for carrying on business or otherwise open for entry (proposed s.144(1)(d)).

22. The bill also confers powers upon inspectors to stop motor vehicles where they may contain things that may provide evidence of an offence (proposed s.150).

23. Once entry has been effected, the bill confers on inspectors a wide range of post-entry, investigative and enforcement powers. These include a provision (see proposed s.153O) which denies persons the benefit of the rule against self-incrimination in relation to an inspector’s requirement that they produce a document issued to, or required to be kept by, the person under the provisions of the *Health Act*. The committee has frequently commented on this type of provision, which has appeared in many bills which it has previously examined.

24. The various entry and post-entry powers mentioned above are in a form generally similar to that employed in many recent bills.

25. Whilst the entry powers conferred upon inspectors are significant and the post-entry, investigative and enforcement powers are wide-ranging, the committee recognises that significant efforts have been made in drafting many of those provisions to take account of fundamental legislative principles.

26. The committee notes that the bill confers on inspectors powers of entry which extend significantly beyond situations where the occupier consents or where a warrant has been

[25] Section 4(3)(e) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation confers power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer

obtained. The committee notes that once entry has been effected, the bill confers upon inspectors a further wide range of powers. Finally, the committee notes that the bill confers upon inspectors significant powers to obtain information.

27. The committee brings the powers of entry, and the extent of the other powers referred to above, to the attention of Parliament.

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification?[26]

♦ **Clause 60 (proposed s.153ZI)**

28. Clause 60 is one of a number of provisions of the bill which amend the *Health Act 1937*. It provides that in legal proceedings under the Act, including proceedings for an offence, various matters may be put into evidence before the Court by means of a certificate signed by the chief executive. Most of these matters are non-controversial[27] and the committee has no concerns in relation to them.

29. However, s.153ZI(2) provides as follows:

> *(2) A statement in a complaint for an offence against a relevant provision or this part that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the matter stated.*

30. The committee has previously queried the insertion of this provision in two bills.[28]

31. As mentioned on those occasions, the committee's concern is that this provision goes beyond the range of non-controversial matters. It is, in fact, a quite general statement that any assertion in a complaint that facts constituting the elements of the relevant offence existed, are evidence of those matters.

32. This means that whilst the court is not obliged to accept the statements in the complaint, it may (particularly in the absence of contradictory evidence) do so.

33. In *Gallagher v Cendak [1988] VR 731* at pages 739 – 740, Vincent J. expressed the following concerns about the use of allegations in complaints ("averments") in cases where a provision such as s.153ZI(2) exists;

> *…averments (should) be drawn with care and precision and that the Courts should remain sensitive to the possibility of injustice arising from their use. It must not be forgotten that although they are ascribed the status of prima facie evidence, averments are none the less mere allegations. Their employment can create a risk that a conviction may be recorded against an individual where there is actually no evidence adduced against the alleged offender other than the making of such an allegation…..*

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26 Section 4(3)(d) of the *Legislative Standards Act 1992* provides that whether legislation haws sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

27 For example, whether on a stated day a particular person held appointment as an inspector or State analyst.

28 See the committee's reports on the *Animal Care and Protection Bill 200l*; Alert Digest No. 5 of 2001 at pages 8 – 9, and its report on the *Education (Accreditation Of Non-State Schools) Bill 2001*; Alert Digest No. 5 of 2001 at page 16.

> *The convenience which averments bring to prosecuting authorities needs to be carefully balanced against the possible unfairness of their use to a defendant and the risk that there may be, whatever the authorities may say, a de facto reversal of the onus of proof.*

34. Whilst the offences concerned are generally less serious in nature than those under the *Criminal Code,* and whilst a provision such as s.153ZI(2) is undoubtedly of considerable convenience to prosecuting authorities, the existence of this far-reaching provision is never-the-less of concern to the committee.

35. The committee seeks information from the Minister as to whether the Minister is satisfied that the insertion of a provision such as s.153ZI(2) is necessary, and even if the Minister considers it is, whether the matters to which it is to relate could not be more restrictively defined.

♦ **Clause 60 (proposed s.153ZM and 153ZN)**

36. Proposed s.153ZM effectively declares persons (including corporations) to be guilty of offences committed by their representatives (which term, in the case of corporations, includes its executive officers).

37. Proposed s.153ZN obliges the executive officers of a corporation to ensure that the corporation complies with the provisions of the bill, and ensures that if the corporation commits an offence against the provisions of the bill, each executive officer also commits an offence.

38. Both clauses provide grounds upon which liability may be avoided. These are essentially that the person took reasonable steps to ensure compliance and/or to prevent the offending act or omission, or that the person was not in a position to influence the conduct of the relevant person or corporation.

39. Proposed ss.153ZM and 153ZN both effectively reverse the onus of proof, since under the law a person generally cannot be found guilty of an offence unless he/she has the necessary intent. In relation to this issue, the Explanatory Notes state:

> *However, given that the controls placed on the supply of drugs and poisons under the Act are aimed at protecting the health of the public, it is appropriate that:*
>
> - *persons be required to oversee the conduct of their representatives and, in doing so, make reasonable efforts to ensure that their employees and agents comply with the requirements of the legislation;*
> - *an executive officer, who is in a position to influence the conduct of a corporate licensee, be required to ensure that the corporation complies with the legislation; and*
> - *an executive officer, who is responsible for a contravention of the legislation, be accountable for his or her actions and not able to 'hide' behind the corporation.*
> - *The provisions are therefore warranted to ensure that there is effective accountability at a corporate level.*

40. The committee notes that the proposed ss.153ZM and 153ZN of the bill effectively reverse the onus of proof.

41. The committee refers to Parliament the question of whether, in the circumstances, this reversal of onus is justified.

Does the legislation adversely affect rights and liberties, or impose obligations, retrospectively?[29]

♦ **Clause 77 (proposed s.405)**

42. Clause 77 inserts proposed s.405, which validates any disciplinary decision made by the Health Practitioners Tribunal in relation to a practitioner who, at the time, was suspended and therefore taken under s.381 (1) of the *Health Practitioner Registration Act* not to be registered under the relevant registration Act.

43. The practice of making retrospectively validating legislation is not one which the committee endorses, because such law could adversely affect rights and liberties or impose obligations retrospectively and therefore breach fundamental legislative principles. The committee does, however, recognise that there are occasions on which curative retrospective legislation without significant effects on rights and liberties of individuals is justified to correct unintended legislative consequences.

44. In the present circumstances, and even if the relevant decisions of the Tribunal were in fact invalid, such invalidity would be based entirely on a technical oversight in the provisions of the Act. It is difficult to see that the health practitioner whose conduct merited disciplinary action could raise any convincing objection to the rectification of such an oversight.

45. The committee notes that cl.77 inserts a provision (proposal s.405)validating certain decisions of the Health Practitioners Tribunal.

46. In the circumstances, the committee has no concerns about the retrospective operation of that provision.

♦ **Clauses 110 and 119 (proposed s.228A to 228G inclusive), clause 131 (proposed s.313A to 313G)**

47. Clauses 110 and 119 are amongst various provisions of the bill which amend the *Mental Health Act 2000*. Clause 119 inserts new Part 5A (“Non-Contact Orders”). These provisions (proposed s.228A to 228G inclusive) apply if, on a review of the mental condition of a person charged with a “personal offence”, the Mental Health Tribunal decides to revoke a “forensic order” made for the person.

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[29] Section 4(3)(g) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not affect rights and liberties, or impose obligations, retrospectively.

48. In those circumstances the Tribunal may make a "non-contact order" (s.228B(1)), which may last for no longer than 2 years (s.228B(2)). An order must not be made without the Tribunal considering the views of various affected persons including the victim and the person against whom the order is to be made, and the viability of the order.[30] There is a right of appeal to the Mental Health Court (s.228D). Application may be made for a variation or revocation of the order (s.228F). A variation may only be sought if there has been a material change in the circumstances of an "interested person".[31]

49. Clause 131 (proposed ss.313A to 313G inclusive) confers a similar power to make non-contact orders on the Mental Health Court if, upon a reference to it, it decides that a person charged with a "personal offence" was of unsound mind when the alleged offence was committed or is unfit for trial on a permanent basis, and it does not make a "forensic order" for the person (s.313A).

50. In those circumstances the Court may make a non-contact order (s.313B), which again may be made for no longer than 2 years. As mentioned, the various provisions inserted by cl.131 are similar to those inserted by cl.119.

51. Clearly, non-contact orders impact upon the right of the person against whom they are made to freedom of movement. They also involve prohibitions on that person exercising any right to have contact with the victim, although this does not appear to the committee to raise significant difficulties in principle.[32]

52. Whilst non-contact orders, as mentioned, clearly affect the rights of the persons against whom they are made, it seems to the committee that in the context of this bill, they may well be an unobjectionable additional option for the Tribunal or Court in dealing with a difficult situation.

53. The committee notes that cls.110, 119 and 131 confer power upon the Mental Health Tribunal and the Mental Health Court to make non-contact orders against persons.

54. In the circumstances, the committee does not consider such orders to be objectionable in principle.

- **Clauses 234 and 235**

55. Clauses 234 and 235 are amongst those clauses of the bill which amend the *Transplantation and Anatomy Act 1979*.

56. Clause 234 amends s.48 of that Act so as to impose increased penalties in relation to offences concerning removal of tissue. The offences, which presently carry a maximum penalty of 10 penalty units ($750) will now carry a maximum of 100 penalty units ($7,500) or 1 year's imprisonment.

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[30] The bill provides an example of non-viability, that is, where contact may be unavoidable if the person against whom the order is made, and the victim, both live in a small remote community.

[31] The bill provides an example of such a material change, namely, where because of relocation of the victim's workplace, the victim will be working in the building where the person against whom the order is made works.

[32] The committee has previously reported upon provisions of a bill authorising non-contact orders: see the committee's report on the *Penalties and Sentences (Non-Contact Orders) Amendment Bill 2000*, Alert Digest No. 13 of 2000 at pages 30-32.

57. Section 49A, which is inserted by cl.235, creates an offence of "taking a reprisal" against someone in the belief that that person has provided information about an alleged offence to a person for the purpose of having the alleged offence investigated or prosecuted, or that anyone has given or may give evidence to a Court in proceedings for an offence. Clause 49B declares the act of taking a reprisal to be an offence, punishable by a maximum penalty of 167 penalty units ($12,525) or 2 years imprisonment. Section 49C also declares the taking of a reprisal to be a tort, for which a person may be liable in damages.

58. The committee draws to the attention of Parliament the significant penalties imposed under provisions inserted by cls.234 and 235 of the bill, in relation to the taking of a reprisal.

5. PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 2001

Background

1. The Honourable Henry Palaszczuk MP, Minister for Primary Industries and Rural Communities, introduced this bill into the Legislative Assembly on 11 September 2001.

2. The object of the bill, as indicated by the Minister in his Second Reading Speech, is:

   To amend a number of pieces of legislation within the Primary Industries portfolio as well as repealing three other Primary Industry Acts that are no longer relevant.

Does the legislation have sufficient regard to the rights and liberties of individuals?[33]

♦ **Clauses 32 and 33**

3. Section 44(5) of the *Timber Utilisation and Marketing Act 1987* presently provides that proceedings for statutory offences committed against the Act may be instituted within 12 months after the commission of the offence, or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later.

4. Clauses 32 and 33 of the bill, taken together, amend these conditions by extending from 6 months to 12 months the permissible period after commission of the offence comes to the knowledge of the complainant. At the same time, the bill introduces a cut-off point of 7 years after the commission of the offence for the bringing of any proceedings. At present the Act does not contain any such cap.

5. Whilst indictable offences are not normally subject to periods of limitation and may be prosecuted at any time, statutory and summary offences, which are generally less serious in nature than indictable offences, are usually subject to specific limitation periods. These periods, moreover, are generally short.[34]

6. Whilst most Queensland statutes which specifically address this issue provide a relatively short limitation period for the commencement of proceedings, they frequently also include a provision enabling proceedings to be brought within a stipulated (relatively short) period after commission of the offence comes to the knowledge of the complainant. The *Timber Utilisation and Marketing Act's* current provisions are typical of these. On the other hand, most Queensland statutes which provide these dual limitations do not appear to impose an overall cap of the type introduced by this bill.

7. In relation to the extension of the limitation period from 6 to 12 months after commission of the offence comes to the complainant's knowledge, the Explanatory Notes state:

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[33] Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

[34] For example, the *Justices Act 1886 (Qld)* s.52, provides that in the absence of any specific limitation provision in the statute governing a particular offence, a general limitation period of 12 months from the date of commission shall apply. It contains no provision authorising proceedings to be brought within a stipulated period after the commission of the offence comes to the knowledge of the complainant.

> *…. The small extension in time (from six months to twelve months) from the date the offence comes to the knowledge of the complainant is necessary. The extension will give the investigating officers sufficient time to test timber to assess whether a breach of the Act had occurred.*

8. In relation to the same issue, the Minister in his Second Reading Speech stated:

> *The extension of time is necessary as a number of potential prosecutions under the Act in the past have not been able to proceed due to the present requirement that proceedings must be commenced within one year of the offence being committed or six months of the offence coming to the knowledge of the complainant.*
>
> *Often, the six month time limit did not allow sufficient tests to be completed to assess whether timber infestation had occurred.*
>
> *The extension of time to one year will remedy that situation to allow better enforcement of the Act.*
>
> *The amendments will provide better protection for consumers with regard to controlling marketing and use of termite susceptible timbers*

9. In relation to the imposition of a 7 year cap, the Explanatory Notes state:

> *To provide certainty for defendants, the new section places a cap of seven years on instituting proceedings from the date of the offence was committed. The old limitation period did not provide a cap on the time in which a prosecution can take place. A lengthy cap such as seven years is required as timber damage may take seven years to emerge.*

10. The imposition of a 7 year cap does, as the Explanatory Notes assert, act as a counter-balance to the extension of the time for prosecution after notice of the commission of the offence. The extent to which a balance is achieved is a practical issue which it is difficult for the committee to assess. The committee is inclined to think the 6 to 12 month extension will prove more significant in practice than the insertion of the 7 year cap. Even if that were the case, the reasonableness of the extension must of course be considered in light of relevant circumstances, including the practicalities of examining timber infestations, as mentioned in the Explanatory Notes and the Minister's Speech.

11. The committee notes that the bill extends from 6 to 12 months the period after knowledge of commission of an offence comes to the complainant's knowledge, but also imposes a 7 year cap upon the time within which proceedings may be brought at all.

12. The committee refers to Parliament the question of whether these changes have sufficient regard to the rights of persons who may be prosecuted for the relevant offences.

- **Clause 54 (proposed s.25, definition "disqualifying offence")**

13. Clause 54 of the bill amends the *Veterinary Surgeons Act 1936* by inserting proposed s.25, which lists a range of "disqualifying offences". One of the grounds upon which the Veterinary Surgeons Board of Queensland may refuse to grant an application for approval to use premises as veterinary premises is that the Board is satisfied the applicant (or an executive officer of an applicant corporation) has been convicted of such an offence (proposed s.25F(c) and (d)).

14. "Disqualifying offence", as defined in proposed s.25, includes indictable offences (paragraph (a)), offences against the Act (paragraph (b)) and the like. It also includes the following:

> *(e) an offence relating to obtaining, administering, dispensing, prescribing or selling a drug or poison as prescribed under a regulation.*

15. Given the importance of the matters concerned, a question might arise as to why the types of "offences relating to obtaining, administering, dispensing, prescribing or selling a drug or poison" cannot definitively be stated in the bill itself, rather than being left to regulations.

16. The committee seeks information form the Minister as to why the types of drug or poison-related offences which are to constitute "disqualifying offences" under proposed s.25 cannot be stated in the bill itself rather than being left to regulations.

Does the bill authorise the amendment of an Act only by another Act (by a "Henry VIII clause")?[35]

- **Clause 37 (proposed s.2A(3))**

17. Clause 37 inserts into the *Veterinary Surgeons Act 1936* a new s.2A, which defines the term "veterinary science". Section 2A(1) includes a general definition, and s.2A(2) lists various examples. Section 2A(3) then provides as follows:

> *'(3) However, **"veterinary science"** does not include an act done for animal husbandry or animal dentistry prescribed under a regulation not to be veterinary science.*

18. It appears to the committee that the proposed s.2A(3) is a "Henry VIII clause" within the definition of that term adopted by the committee.[36] This occurs because the provisions of proposed ss.2A(1) and 2A(2) can, in relation to certain (relatively limited) categories of "veterinary science", be displaced by the making of a regulation.[37]

19. The committee's definition of "Henry VIII clause" does not include situations where a statutory definition may be expanded by resort to subordinate legislation.[38] However, the effect of proposed s.2A(3) is that certain types of "veterinary science" may be excluded from the definition of that term and it therefore, in the committee's view, does constitute a "Henry VIII clause". It moreover falls within the category of "Henry VIII clauses" which the committee classifies as "generally objectionable". However, one of the four grounds upon which the committee is prepared to concede that such clauses may sometimes be acceptable is in circumstances where it is necessary to facilitate immediate Executive action. In this regard, the committee notes what the Explanatory Notes state, in relation to the relevant provision:

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35 Section 4(4)(c) of the *Legislative Standards Act 1992* provides that whether a bill has sufficient regard to the institution of Parliament depends on whether, for example, the bill authorises the amendment of an Act only by another Act.

36 See Scrutiny of Legislation Committee's report *The Use of "Henry VIII Clauses" in Queensland Legislation*, January 1997.

37 A similar provision is reported on elsewhere in this Alert Digest in relation to the *Environmental Protection Legislation Amendment Bill (No.2) 2001.*

38 See the committee's report at pages 30 – 31.

> *The provision also provides that a regulation may declare some animal husbandry and dentistry procedures not to be veterinary science. This means that such procedures may be legally performed by persons who are not veterinary surgeons. ('exempted procedures"). The list of exempted procedures are to be prescribed by regulation as they may need to be amended quickly to accord with community and professional expectations of which procedures are appropriate to be performed by people who are not veterinary surgeons. Examples of procedures that will be included in the regulation as exempted animal husbandry procedures include the desexing, dehorning and artificial insemination of some farmed animals. An example of an exempted animal dentistry procedure will be the filing of horses' teeth.*

20. Whilst noting this explanation, the committee is not necessarily convinced that the particular subjects covered by the regulations could require Executive action on a sufficiently urgent basis to render the clause acceptable.

21. The committee considers that proposed s.2A(3) (inserted by cl.37) is a "Henry VIII clause". The committee generally does not endorse the use of such provisions, as they undermine the institution of Parliament.

22. The committee refers to Parliament the question of whether this provision of the bill has sufficient regard to the institution of Parliament.

Is the legislation consistent with the principles of natural justice?[39]

- **Clause 46**

23. Clause 46 omits s.15F(2) of the *Veterinary Surgeons Act 1936*, which deals with representation in proceedings before the Veterinary Tribunal of Queensland, and replaces it with new subsections (3) and (3A).

24. The new subsections are broadly consistent with the committee's stance on representation of parties before tribunals,[40] in that they establish a general principle that parties to proceedings are entitled to representation by a lawyer or other person. The provisions empower the tribunal, if it considers it "appropriate in the interests of justice," to direct that a party not be represented by a lawyer or other person, but in exercising this discretion the tribunal must have regard to various matters stipulated in subsection (3A). These are the cost of representation and whether each party can afford to be represented, the potential for lengthening the proceedings if a party is not represented, and whether the nature of the subject matter is practical as opposed to legal or technical.

25. The committee notes that under cl.46 (proposed s.15F(3) and (3A)) parties to proceedings before the Veterinary Tribunal of Queensland have a general entitlement to representation by a lawyer or other person, and that a decision of the Tribunal to deny a party representation must be based upon a range of considerations stipulated in subsection (3A).

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[39] Section 4(3)(b) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation is consistent with the principles of natural justice.

[40] See the committee's report on the *Electricity Amendment Bill 2000*, Alert Digest No. 5 of 2000 at page 10.

26. The committee refers to Parliament the appropriateness of the Tribunal's ability to refuse a person's request to be represented by a lawyer or other person.

6. PROPERTY AGENTS AND MOTOR DEALERS AMENDMENT BILL 2001

Background

1. The Honourable Merri Rose MP, Minister for Tourism and Racing and Minister for Fair Trading, introduced this bill into the Legislative Assembly on 11 September 2001. The bill was subsequently passed, with amendments, on 13 September 2001, before the committee had an opportunity to table a report in relation to it.

2. Upon receiving the Governor's assent, the bill becomes an Act. The committee only has jurisdiction to comment on bills, and once assent has been given the committee has no jurisdiction to comment upon it.

3. Even if the bill has not been assented to, there is in practice no scope for it to come back before Parliament once it has passed the third reading stage. Accordingly, it would be futile for the committee to attempt to comment on the bill's contents.

4. The committee only has jurisdiction to comment on bills, not Acts. If the bill has already been assented to, the committee has no jurisdiction to comment on it. Even if it has not been assented to, it would in practical terms be futile for the committee to comment.

5. The committee accordingly makes no comment in respect of this bill.

SECTION B

COMMITTEE RESPONSE TO MINISTERIAL CORRESPONDENCE

Note: s.14B of the *Acts Interpretation Act 1954* provides that consideration may be given to "extrinsic material" in the interpretation of a provision of an Act in certain circumstances. The definition of "extrinsic material" provided in that section includes:

... a report of a committee of the Legislative Assembly that was made to the Legislative Assembly before the provision was enacted[41]

Matters reported on to Parliament by the Scrutiny of Legislation Committee in its alert digests prior to the enactment[42] of a provision may therefore be considered as extrinsic material in its interpretation.

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41 Section 14B(3)(c) Acts *Interpretation Act 1954*.

42 The date on which an Act receives royal assent (rather than the date of passage of a bill by the Legislative Assembly) s.15 *Acts Interpretation Act 1954*.

SECTION B– COMMITTEE RESPONSE TO MINISTERIAL CORRESPONDENCE

7. ANIMAL CARE AND PROTECTION BILL 2001

Background

1. The Honourable H Palaszczuk MP, Minister for Primary Industries and Rural Communities, introduced this bill into the Legislative Assembly on 31 July 2001. As at the date of publication of this digest the bill had not been passed.

2. The committee commented on this bill in its Alert Digest No 5 of 2001 at pages 1 to 11. The Minister's response to those comments is referred to in part below and reproduced in full in Appendix A to this digest.

Does the bill sufficiently subject the exercise of delegated legislative power to the scrutiny of the Legislative Assembly?[43]

♦ **Clauses 14 and 49**

3. The committee noted that the bill authorises the legislative incorporation, by statutory instrument, of external documents and that cls.4 and 19 endeavoured to overcome the difficulties associated with the accessibility of the external documents concerned.

4. The Minister provided the following comments:

> *The Committee has noted that the Bill allows for a regulation to adopt codes of practice. The Committee points out that conferring the force of law on external documents may result in a number of problematic or undesirable aspects.*
>
> *The committee noted that clauses 14 and 49 of the Bill endeavour to overcome the problem of accessibility of incorporated documents. I am confident that the clauses do overcome the problem. The provisions ensure that copies of adopted codes are available to the public and that Parliament is kept informed of the content of the codes through the tabling requirements.*
>
> *The Committee also expressed the concern that it is theoretically possible that the codes may incorporate provisions inconsistent with fundamental legislative principles. In that regard the Committee should note that the majority of codes adopted under the Bill will be non compulsory. A person is not compelled to comply with the code, rather a person may choose to prove compliance with the duty of care set out in clause 17 by proving compliance with the code (clause 40). Given that the codes are non-compulsory, I do not consider that there is a risk of breaching fundamental legislative principles. It should also be noted that the codes are developed in conjunction with industry and meet industry requirements.*
>
> *Some codes or parts of codes can be made compulsory under clause 15 of the Bill. In this case I acknowledge that there is a chance that fundamental legislative principles could be*

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[43] Section 4(4)(b) of the *Legislative Standards Act 1992* provides that whether a bill has sufficient regard to the institution of Parliament depends on whether, for example, the bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

breached. I do not propose to adopt such provisions by reference, rather, such compulsory provisions will be incorporated in regulations.

5. The committee thanks the Minister for his response, and notes that compulsory provisions of codes will be incorporated in regulations.

Does the legislation have sufficient regard to the rights and liberties of individuals?[44]

♦ **Clauses 17, 18, 19, 21, 22, 25, 26, 27, 28, 29, 30, 31, 35, 36, 37, 51, 91, 92 and 187**

6. The committee noted that under a large number of clauses of the bill significant maximum penalties are provided for offences concerned, and that many of the offences are offences of omission. The committee drew to the attention of Parliament the significant maximum penalties, frequently including an imprisonment option, for the various offences created by the bill.

7. The Minister responded:

The committee has drawn the attention of Parliament to the significant maximum penalties, frequently including an imprisonment option, for the various offences created by the Bill.

The penalty levels in the Bill have been set at a high rate for several reasons. Firstly, it must be recognised that this Bill will apply to all types of animal husbandry practices and therefore to some high value commercial ventures. These high value commercial ventures may consider smaller fines an acceptable commercial risk.

Secondly, the level of the fines has been set to reflect the fact that deliberate acts of cruelty will not be tolerated in Queensland.

8. The committee notes the Minister's response.

♦ **Clauses 182 to 184 inclusive**

9. The committee noted that the provisions of Chapter 7, Part 2 (particularly cls. 182, 183 and 184) enable a range of orders to be made against persons, which affect their ownership of, or capacity to acquire ownership of, animals and related things. The committee referred to Parliament the question of whether these interferences with the rights of persons to own property (including animals) are justified in the circumstances.

10. The Minister commented:

The Committee has referred to Parliament the question of whether the range of orders made against persons that affect ownership of, or capacity to acquire ownership of, animals and related things are justified in the circumstances.

The Committee has queried why, under clause 182(2)(b), the court has been given discretion as to "how the proceeds of sale of the animal or other thing are to be distributed" leaving open the possibility that part or all of those proceeds may not be distributed to the owner. This clause has been included to allow the court necessary flexibility in its decision making.

44 Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

There are several instances where it may be appropriate for the court not to provide proceeds of sale of an animal to the owner, those being:

- *Another person with an interest in the animal may have a valid legal claim to some or all of the proceeds, for example a mortgagee of the animals;*
- *Since the animals concerned will usually have been abused in some way, the court may award some of the proceeds of sale to cover treatment of the animal or to cover the cost of housing it.*

In relation to the other orders that may be made, it must be recognised that the object of this Bill is to protect animals from acts of cruelty. Where severe acts of cruelty have been committed by a person against animals, particularly repeated acts, the court must be able to take into account the welfare of animals. If the court forms the view that an animal would be at severe risk of abuse if acquired by a person, it must be able to prevent such ownership until that person has satisfied the court that the person is capable of caring for the animal properly.

11. The committee notes the Minister's response.

Does the legislation confer power to enter premises and to search for or seize documents or other property without a duly issued warrant?[45]

♦ **Clauses 107 to 113 inclusive and 122 to 170 inclusive**

12. The committee noted that by cls 107 to 113 and 122 to 170 the bill confers on authorised officers and inspectors wide powers of entry, and that once entry has been effected, the bill confers upon these persons a further wide range of powers, including significant powers to obtain information. The committee noted, however, that many of these powers are clearly tailored to the peculiar nature of animal welfare. The committee drew these extensive powers of entry, and other significant powers to the attention of Parliament.

13. The Minister responded:

The Committee notes that the bill confers on authorised officers and inspectors wide powers of entry, which extend well beyond situations where the occupier consents or where a warrant has been obtained. The Committee also notes that once entry has been effected, the bill confers upon these persons a further wide range of powers. Finally, the committee notes that the bill confers significant powers to obtain information.

Firstly, the Committee notes that the powers conferred upon authorised officers extend beyond situations where the occupier consents or where a warrant is obtained. Let me point out that authorised officers have only a limited role. Their functions are to:

- *Monitor compliance with compulsory code requirements and the scientific use code; and*
- *Promote standards of animal care provided for under codes of practice.*

Authorised officers do not carry out an enforcement role and therefore the officers will not be entering to collect evidence that could lead to the prosecution of the owner of the

[45] Section 4(3) (e) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation confers to power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

premises. Rather they enter premises to check on the welfare of animals and promote awareness in the animal's owner of any relevant code of practice. Authorised officers can only exercise their powers within monitoring programs (s 107(2)) which are required to be developed transparently and, in practice, will be done in close consultation with the relevant industries. Given this role, I consider that the powers given to authorised officers is entirely appropriate and reasonable. Entry only occurs after consent is given, adequate notice is given or if it is a public place.

Once authorised officers have entered premises they can order the production of documents, but again that is to assist in the carrying out of their role.

In relation to the powers of inspectors, I reiterate my comments in the explanatory notes for the Bill that the entry powers are essential if the bill is to meet its stated purpose of protecting animals from unjust, unnecessary or unreasonable pain and to gather evidence of animal welfare offences that would otherwise be hidden or destroyed. I thank the Committee for nothing the "significant efforts which have been made in drafting many of those provisions to take account of fundamental legislative principles".

The Committee has noted the use of the term "reasonably suspects" as opposed to the more traditional "reasonably believes" in some clauses of the Bill. The term "reasonably suspects" was used in order to align it with similar powers contained in the Police Powers and Responsibilities Act 2000 (PPR Act). This is aimed to achieve consistency of approach between inspectors and police, both of whom will carry out enforcement functions under the Act.

In the PPR Act the term "reasonably suspects" is used extensively in relation to obtaining warrants or to justify search without warrant. The expression "reasonably believes" is used to ground other actions that police may take and to trigger the use of more controversial powers such as obtaining surveillance warrants and body fluid samples. The situations where the term "reasonably suspects" is used in the Bill, such as to enter premises to deal with severely injured animals or to decide not to issue a receipt for seized property, are clearly not of this more extreme or controversial nature.

14. The committee notes the Minister's response.

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification?[46]

- **Clauses 181 and 209**

15. Clauses 181 and 209 both effectively reverse the onus of proof. The committee as a general rule does not endorse provisions that reverse the onus of proof, particularly in relation to corporations. The committee referred to Parliament the question of whether cls.181 and 209 contain a justifiable reversal of the onus of proof.

16. The Minister provided the following response:

The Committee has noted that these clauses reverse the onus of proof and that the Committee does not, as a general rule, endorse such provisions.

[46] Section 4(3)(d) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

Since this Act applies to companies running, for example, a feedlot, with a very substantial turnover, monetary penalties on the company itself would not always prove an effective deterrent. The most effective deterrent is the threat of a penalty to a company executive. In any case, a corporation can only act through its executives and if an act of extreme cruelty to animals has occurred, it is necessary to lift the corporate veil to punish those responsible. This is an approach used extensively in legislation, such as environmental legislation, to ensure compliance by corporations.

As I have stated in the explanatory notes, I do not regard clause 209 as a reversal of the onus of proof because the matters to be proved are not elements of the offence. In other words, executives do not have to prove that they failed to ensure that the corporation did not comply with a provision. Rather executives have to prove their level of influence in the company, and if influence exists, that reasonable diligence was used. These are matters that will usually be entirely within the defendant's knowledge and would be impossible for the prosecutor to prove in the negative.

17. The committee notes the Minister's response.

♦ **Clause 179**

18. The committee expressed concern that cl.179 of the bill, enabling a statement of a matter to be taken as evidence, may go beyond non-controversial matters and sought information from the Minister as to the matters to which cl.179 is intended to apply.

19. The Minister provided the following information:

The Committee has expressed concern that clause 179 of the Bill, enabling a statement of a matter to be taken as evidence, may go beyond non-controversial matters. This was not the intention of the clause and I propose to move an amendment in committee to clarify that the statement is only evidence of the date the complaint came to the complainant's knowledge and not the elements of the offence.

20. The committee thanks the Minister for his response, and notes that the bill will be amended to address the committee's concerns.

Is the legislation unambiguous and drafted in a sufficiently clear and precise way?[47]

♦ **Clause 50, definition of 'Conviction'**

21. The committee recommended that the provisions of paragraphs (a) and (b)(ii) of cl.50, which refer to the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, be modified, to render the intended meaning of the relevant definitions clearer.

22. The Minister responded as follows:

The Committee has recommended that the wording of these provisions be modified to precisely reflect the structure of the Criminal Law (Rehabilitation of Offenders) Act 1986. I propose to move an amendment in Committee to accord with the Committee's request.

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[47] Section 4(3) (k) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation is unambiguous and drafted in a sufficiently clear and precise manner.

23. The committee thanks the Minister for his response, and notes that the bill will be amended to address the committee's concerns.

♦ **Clause 12(1)(c)**

24. The committee noted that cl. 12(1)(c) of the bill extends the meaning of 'person in charge of an animal' and sought information from the Minister as to the range of situations to which cl.12(1)(c) is intended to apply.

25. The Minister provided the following information:

The Committee has sought information as to the range of situations to which clause 12(1)(c) relates. The clause is intended to cover both situations where:

- *An employer has passed custody of an animal to an employee; and*
- *Where the employer is aware that an employee is using the employee's own animal to carry out the employee's obligations under the employment or engagement. This later application of the provision is necessary to ensure that an employer cannot hide behind the fact that it does not own the animal in a case where it knowingly condones or encourages mistreatment of the animal.*

26. The committee thanks the Minister for this information.

Does the legislation provide appropriate protection against self-incrimination?[48]

♦ **Clauses 139 and 169**

27. The committee noted that cls. 139 and 169 of the bill deny persons the benefit of the rule against self-incrimination in relation to the compulsory production of documents required to be kept under the bill or (in certain circumstances) under corresponding interstate or Commonwealth legislation. The committee referred to Parliament the question of whether the denial of the benefit of the self-incrimination rule by cls.139 and 169 is justifiable.

28. The Minister responded:

The Committee notes that clauses 139 and 169 deny persons the benefit of the rule against self incrimination in relation to the compulsory production of documents required to be kept under the Bill or corresponding interstate or Commonwealth legislation.

This provision only applies to records that legislation requires must be maintained. Provisions requiring the keeping of records would be rendered totally ineffective if those records could not be checked for compliance. Equally the person keeping the records is aware from the outset that they will be subject to inspection. The requirement to produce those records is considered necessary to determine if offences have occurred or to exonerate a person where it is falsely alleged that an offence has been committed.

29. The committee notes the Minister's response.

48 Section 4(3)(f) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation provides appropriate protection against self-incrimination.

8. PENALTIES AND SENTENCES (NON-CONTACT ORDERS) AMENDMENT BILL 2001

Background

1. The Honourable R J Welford MP, Attorney-General and Minister for Justice, introduced this bill into the Legislative Assembly on 7 August 2001. As at the date of publication of this digest the bill had not been passed.

2. The committee commented on this bill in its Alert Digest No 5 of 2001 at page 22. The Attorney's response to those comments is referred to in part below and reproduced in full in Appendix A to this digest.

Does the legislation have sufficient regard to the rights and liberties of individuals?[49]

Does the legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification?[50]

Is the legislation unambiguous and drafted in a sufficiently clear and precise way?[51]

3. The bill is generally similar to the *Penalties and Sentences (Non-Contact Orders) Amendment Bill 2000* which lapsed when Parliament was dissolved on 23 January 2001. The previous Scrutiny of Legislation Committee reported on that bill in Alert Digest No.13 of 2000 at pages 30-32, and Alert Digest No.14 of 2000, at pages 13-15. The committee adopted and repeated, in relation to the current bill, the comments made by the previous committee in relation to the earlier lapsed bill.

4. The Attorney responded as follows:

> *The Committee notes at paragraph 6 that it "… adopts and repeats, in relation to the current bill, the comments made by the previous committee in relation to the earlier lapsed bill".*
>
> *My predecessor dealt with the previous Committee's comments on the Bill in a letter dated 11 October 2000. For the record the relevant issues are as follows:*
>
> ***Information as to why the Bill makes no provision for an offender to apply for amendment or variation of non-contact order within 6 months where there has been a material change in circumstances.***
>
> *In my second reading speech I indicated that I had considered the previous Committee's arguments on this matter but remained of the view that the six month prerequisite should remain.*

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49 Section 4(2)(a) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to rights and liberties of individuals.

50 Section 4(3)(d) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

51 Section 4(3)(k) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation is unambiguous and drafted in a sufficiently clear and precise manner.

As noted by my predecessor in his letter last year to the previous Committee, the six month prerequisite has been included to prevent an offender turning around and applying (without any real basis) for an amendment or revocation immediately after an order is made. This could cause unnecessary stress to the victim and/or associate – the very people for whose benefit the order was made in the first place.

The order is part of the sentence and the offender does have a right to appeal against the order as an appeal against sentence. If the change in the offender's circumstances occurs outside the relevant appeal period but before the expiration of the six months, the offender will have to seek an enlargement of time under the appeal provisions of the Criminal Code.

The "… apparently fluctuating onus of proof …" brought about by proposed Section 43D.

As noted in my Second Reading Speech, out of an abundance of caution the Bill also amends section 132C(5)(a) of the Evidence Act 1977. The effect of this is to make it abundantly clear that section 132C of the Evidence Act 1977 (which was inserted last year in response to the decision of the Court of Appeal in R v Morrison [1999] 1 Queensland Reports at page 397) applies to this Bill. This means that a judge or magistrate has to be satisfied on the balance of probabilities about disputed evidence in relation to an order or an application to amend or revoke the order.

Section 43D(8) of the Bill has been amended to include the suggestion by the previous Committee that the legislation make it clear that the court should be satisfied that there has been a material change in circumstances irrespective of who brings an application for amendment or revocation.

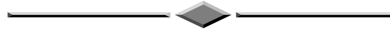
Information as to why it is necessary to extend the circumstances in which an order may be made to damage or fear of damage to property.

My predecessor indicated in his letter last year to the previous Committee that the Bill is about providing protection to victims. Proposed section 43C(1) provides that a contact order is an order that contains either or both of the following:

- *a requirement that the offender not contact the victim or associate;*
- *a requirement the offender not go to a stated place or within a stated distance of a stated place, for a stated time.*

The court may have evidence before it that the offender is likely to damage the victim's property. An example of this may be a letter from the offender indicating that he/she will resort to breaking down doors to gain entry to the victim's house. In such a case I believe, like my predecessor, that the court should have the discretion to make an order that the offender not contact the victim and/or not go to the victim's home for a stated time.

5. The committee notes the Attorney's response.



This concludes the Scrutiny of Legislation Committee’s 6th report to Parliament in 2001.

The committee wishes to thank all departmental officers and ministerial staff for their assistance in providing information to the committee office on bills dealt with in this digest.

Warren Pitt MP
Chair

16 October 2001

APPENDICES

APPENDIX A – MINISTERIAL CORRESPONDENCE

APPENDIX B – TERMS OF REFERENCE

APPENDIX C – MEANING OF “FUNDAMENTAL LEGISLATIVE PRINCIPLES”

APPENDIX D – DETAILS OF BILLS CONSIDERED BY THE COMMITTEE

APPENDIX B – TERMS OF REFERENCE

The Scrutiny of Legislation Committee was established on 15 September 1995 by s.4 of the *Parliamentary Committees Act 1995*.

Terms of Reference

22.(1) The Scrutiny of Legislation Committee's area of responsibility is to consider—

(a) the application of fundamental legislative principles[52] to particular bills and particular subordinate legislation; and

(b) the lawfulness of particular subordinate legislation;

by examining all bills and subordinate legislation[53].

(2) The committee's area of responsibility includes monitoring generally the operation of—

(a) the following provisions of the *Legislative Standards Act 1992*–

- section 4 (Meaning of "fundamental legislative principles")
- part 4 (Explanatory notes); and

(b) the following provisions of the *Statutory Instruments Act 1992*–

- section 9 (Meaning of "subordinate legislation")
- part 5 (Guidelines for regulatory impact statements)
- part 6 (Procedures after making of subordinate legislation)
- part 7 (Staged automatic expiry of subordinate legislation)
- part 8 (Forms)
- part 10 (Transitional)

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[52] "Fundamental legislative principles" are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law (*Legislative Standards Act 1992*, s.4(1)). The principles include requiring that legislation has sufficient regard to rights and liberties of individuals and the institution of Parliament.

* The relevant section is extracted overleaf.

[53] A member of the Legislative Assembly, including any member of the Scrutiny of Legislation Committee, may give notice of a disallowance motion under the *Statutory Instruments Act 1992*, s.50.

APPENDIX C – MEANING OF "FUNDAMENTAL LEGISLATIVE PRINCIPLES"

4.(1) For the purposes of this Act, "**fundamental legislative principles**" are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law.[54]

(2) The principles include requiring that legislation has sufficient regard to –

1. rights and liberties of individuals; and
2. the institution of Parliament.

(3) Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation –

(a) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and

(b) is consistent with the principles of natural justice; and

(c) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and

(d) does not reverse the onus of proof in criminal proceedings without adequate justification; and

(e) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and

(f) provides appropriate protection against self-incrimination; and

(g) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

(h) does not confer immunity from proceeding or prosecution without adequate justification; and

(i) provides for the compulsory acquisition of property only with fair compensation; and

(j) has sufficient regard to Aboriginal tradition and Island custom; and

(k) is unambiguous and drafted in a sufficiently clear and precise way.

(4) Whether a bill has sufficient regard to the institution of Parliament depends on whether, for example, the bill –

(a) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and

(b) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and

(c) authorises the amendment of an Act only by another Act.

(5) Whether subordinate legislation has sufficient regard to the institution of Parliament depends on whether, for example, the subordinate legislation –

(a) is within the power that, under an Act or subordinate legislation (the "**authorising law**"), allows the subordinate legislation to be made; and

(b) is consistent with the policy objectives of the authorising law; and

(c) contains only matter appropriate to subordinate legislation; and

(d) amends statutory instruments only; and

(e) allows the subdelegation of a power delegated by an Act only –

  (i) in appropriate cases and to appropriate persons; and

  (ii) if authorised by an Act.

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54 Under section 7, a function of the Office of the Queensland Parliamentary Counsel is to advise on the application of fundamental legislative principles to proposed legislation.

APPENDIX D – DETAILS OF BILLS CONSIDERED BY THE COMMITTEE

Details of all bills considered by the committee since its inception in 1995 are contained in the Bills Register kept by the Committee's Secretariat.

Information about particular bills (including references to the Alert Digests in which they were reported on) can be obtained from the Secretariat upon request.