SCRUTINY OF LEGISLATION COMMITTEE

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SCRUTINY OF LEGISLATION COMMITTEE
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50TH PARLIAMENT, 1ST SESSION

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BILLS EXAMINED BUT NOT REPORTED ON *

TRADING (ALLOWABLE HOURS) AMENDMENT BILL 2002

* 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. CASINO AGREEMENTS LEGISLATION AMENDMENT BILL 2002

Background

1. The Honourable Terry Mackenroth MP, Deputy Premier, Treasurer and Minister for Sport, introduced this bill into the Legislative Assembly on 21 February 2002.

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

> *to amend the Jupiters Casino Agreement Act 1983 and the Brisbane Casino Agreement Act 1992 ("Agreement Acts") to facilitate the abolition of the Founder concept for the Jupiters Gold Coast and Brisbane Casinos.*

Does the legislation adversely affect rights and liberties, or impose obligations, retrospectively?[3]

- **Clauses 4 and 7**

3. Clauses 4 and 7 of the bill authorise certain proposed amendments to the Brisbane Casino Agreement and the Jupiters Casino Agreement respectively. These Agreements, the previous amendments to them and the current proposed amendments have the force of law by virtue of the *Brisbane Casino Agreement Act 1992* and the *Jupiters Casino Agreement Act 1983* respectively.

4. As indicated in the Minister's Second Reading Speech and the Explanatory Notes, the objective of the bill is to facilitate the abolition of the "Founder" concept in relation to these casinos. The amendments to the Agreements, if adopted by shareholders, will impose a future general disqualification upon shareholders holding more than 10% of the voting power in Jupiters Limited, except in the circumstances of a full takeover. The amendments provide for two exceptions which "grandfather" existing holdings larger than 10%, but subject to certain limitations.

5. The Explanatory Notes state that these limitations will have retrospective effect. The Notes address this matter as follows:

> *The amendments will place a maximum limit of 10% shareholding in Jupiters except in a full takeover situation. There will be two exceptions to the 10% rule applying to the current Founders and other significant shareholders in Jupiters who currently hold certain approvals of the Minister. However, the exceptions will operate in a way that will grandfather the relevant shareholding to that held at the date Jupiters announces a proposed buyback of its shares not to that held immediately after the completion of the proposed buyback. It is intended that the proposed buyback will be announced publicly by Jupiters in mid-February 2001 that is, before the Bill is introduced.*

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[3] 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.

Importantly however, the result will be that the Bill will have a retrospective effect that could result in the fettering of existing rights of Founders and other significant shareholders who have approval for, but at this time have not acquired shares up to a pre-determined level of voting power in Jupiters. Jupiters has advised that the Founders have agreed in-principle to the overall de-foundering process and other shareholders will have the opportunity to vote on amendments to the Jupiters Constitution that are identical to those proposed to the Casino Agreements at the time of Jupiters' announcement.

6. This situation may well be broadly comparable to that in which legislation is given retrospective effect to the date upon which Government announced the policy changes it incorporates. The advance notice serves to reduce reliance on the current law, and to forewarn affected individuals.

7. The committee notes that the amended Agreements, which if approved by shareholders will be given the force of law by this bill, will retrospectively affect certain approvals for the acquisition of additional shares by current shareholders.

8. The Explanatory Notes address this issue in some detail.

9. In the circumstances, the committee makes no comment on the retrospective aspects of the bill.

2. ELECTORAL (RESIGNATION OF MEMBERS) AMENDMENT BILL 2002[4]

Background

1. Mrs Dorothy Pratt MP, Member for Nanango, introduced this bill into the Legislative Assembly on 19 February 2002 as a private member's bill.

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

> *to set guidelines for resignation of members of the Parliament before their terms expire. The bill also aims to impose liabilities to members whose grounds for resignation are decided by the Premier and the Leader of the Opposition to be unacceptable.*

Does the legislation have sufficient regard to the rights and liberties of individuals?[5]

Does the legislation have sufficient regard to the institution of Parliament?[6]

- **Clause 4**

3. The bill raises a number of concerns in relation to each of the above matters.

4. Although the objects of the bill are not expressly stated therein, the primary object is evidently to reimburse the public purse for the costs of any by-election incurred as a result of a member either: (i) resigning "without due cause" before the next general election; or (ii) losing one's seat by incurring a ground of disqualification prescribed by s.7 of the *Legislative Assembly Act 1867* (Qld) (see cl.177E).

5. Obviously, the imposition of this liability is intended to deter members from resigning early, in circumstances, which the second reading speech refers to, as constituting a breach of trust with the electorate. That is, the members fail to meet the electorate's expectation that they will serve a full parliamentary term.

6. Clearly, the bill addresses valid concerns over the cost of what are seen to be unnecessary by-elections and the consequent effect on the electorates concerned. Understandably, there is public resentment at times when members resign soon after an election, thereby incurring the costs of a by-election and subjecting the electorate to another election campaign. However, as the bill recognises, a member may be forced to resign early because of circumstances beyond his or her control, such as ill health or other personal reasons. In those cases, no criticism can be directed to the member and no one would expect the member to be held accountable in any way for the inconvenience which follows.

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4 The committee thanks Associate Professor Gerard Carney, School of Law, Bond University, for his valued advice in relation to the scrutiny of this bill.

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

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

7. Accordingly, the bill targets only those members who resign early "without due cause". The bill does not, however, attempt to define those circumstances. Instead, it deems every early resignation to be without due cause unless the member concerned establishes one of the four grounds in proposed s.177B which are effectively grounds of "due cause". In adopting this approach, it casts on members the burden of proving that their early resignation was justified, and it restricts the grounds on which this can be done.

8. The alternative approach would have been to prescribe the circumstances in which early resignation is unjustified. What those circumstances might be are debatable. Even the Second Reading Speech provides little guidance on this, referring merely to those who resign because of alleged criminal conduct or because their political party of which they were leader, loses or fails to gain government. Whether those circumstances constitute "without due cause" is likely to arouse different points of view. Whichever approach is adopted, it is apparent that there are significant difficulties in identifying and defining those circumstances in which an early resignation is or is not justified.

9. It has been accepted in Australia that members of Parliament can resign at any time and for any reason. This is provided for in ss.19 and 37 of the *Commonwealth Constitution* in relation to members of the Commonwealth Parliament and is also the position with members of the Queensland Parliament under s.8 of the *Legislative Assembly Act 1867* (Qld) (and soon under s.75 of the *Parliament of Queensland Act 2001* (Qld)). In contrast, members of the UK House of Commons have never been able to directly resign their seat. Instead, they effectively vacate their seat by being appointed to an office of the Crown, commonly known as the Chiltern Hundreds (see *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 22nd ed, 1997, at 47-48).

10. The bill also holds accountable, members who lose their seat on incurring one of the grounds of disqualification prescribed by s.7 of the *Legislative Assembly Act 1867* (Qld). To date, disqualification has been viewed as a sufficient penalty on a member, even though the actual objective of disqualification is to protect the integrity of Parliament and of its members.

11. Hence, the principal issue for the committee is whether the measures adopted in this bill are appropriate and adapted to protect the public purse and the integrity of the political system, while at the same time paying sufficient regard to the rights and liberties of members of Parliament, as well as to the institution of Parliament.

12. In relation to members who resign their seat, this assessment involves three considerations which are dealt with in turn. For convenience, the position of disqualified members is dealt with later.

(i) Is it fair and reasonable to expect a member who resigns without due cause to pay the cost of the subsequent by-election?

13. The basis for penalising a member for an unjustified early resignation lies in the failure to meet the expectation of one's constituents of serving a full parliamentary term. It may be argued that there is an implicit representation or undertaking that, if elected, one will serve the electorate to the best of one's ability until the next election in three years time. An analogy might be drawn with a person employed on a fixed term contract who breaches that contract by resigning before the expiration of its term. In those circumstances, the employee may be liable in damages for any loss suffered by the employer.

14. On the other hand, such a commercial analogy ignores the special constitutional and political relationship which exists between a member of Parliament and the electorate. It is not a contractural relationship as such, although it is one which is founded on public trust. The member is elected to represent the interests of his or her constituents on the political platform presented to them. This is an obligation which must be performed to the best of the member's ability.

15. Yet, to impose what is in effect a penalty on members who resign without due cause may have unfortunate consequences. First, it may discourage candidates from standing for Parliament, especially if the circumstances allowing for early resignation are unclear or unduly narrow. Secondly, constituents are entitled to be represented by a member who is committed to the job, rather than someone who is desperate to leave. It is an intolerable situation where a member retains a seat only in name. The electorate is entitled to a member who is fully committed to the job of representing their interests. Thirdly, there is the difficulty in defining in sufficiently precise terms those circumstances in which early resignation is, or is not, justified.

16. These difficulties clearly affect the rights and liberties of members and the institution of Parliament itself. While it may be reasonable to expect members who resign without due cause to cover the cost of the subsequent by-election, the imposition of that liability cannot be in the public interest unless these difficulties are substantially overcome. Critical in this assessment is the precision with which the grounds justifying early resignation can be formulated.

(ii) In what circumstances is a resignation "without due cause"?

17. As noted earlier, the bill effectively imposes the onus of proof on the member concerned to establish a due cause by assuming that every early resignation is unjustified unless it falls within one of the four justified grounds.

18. Consequently, there is a real risk that justified circumstances may be overlooked thereby penalising a member unfairly. A safer and fairer course is to impose the onus of proof on the Executive by specifically prescribing those circumstances, if this is possible, in which a member becomes liable to reimburse the by-election costs. In any event, whichever approach is adopted, it can only be fair when it is possible to prescribe those circumstances with sufficient precision. As the bill demonstrates, this is difficult to achieve.

19. Proposed s.177B only recognises four prescribed grounds justifying early resignation. Essentially, they are: (a) ill health; (b) a personal emergency; (c) to seek election to the Commonwealth Parliament; and (d) on being elected a local government councillor.

20. Are there other circumstances, not covered by the bill, which would be regarded as providing an acceptable basis for early resignation? Resignation on political grounds, such as in protest over an issue of some importance, or because of extreme intimidation from other members, might well be justified. So might resignation on account of being subject to a criminal investigation or criminal charge despite being cleared in due course. Yet, resignation in these last mentioned circumstances is deemed to be without due cause (proposed s.77D(2)(b)).

21. Accordingly, the bill as presently drafted subjects members to the risk of liability in wide ranging circumstances which may well justify their early resignation from Parliament.

22. In addition, the grounds of (a) ill health and (b) personal emergency raise other concerns in relation to the rights and liberties of members of Parliament.

(a) Ill health

23. In defining "resignation because of ill health" in proposed s.177C, the rights and liberties of members are unduly restricted in that the ill health must be such that to attend Parliament, this would mean "*gravely endangering* the member's health" (emphasis added). This places the bar far too high. Resignation would be justified and indeed may be required in cases where the level of ill health is much less than that proposed. Section 177C imposes on a member an unacceptable and completely unreasonable standard. Moreover, compliance with it may in fact worsen the member's ill health. This in turn will undermine the electorate's effective representation in Parliament.

(b) Personal emergency

24. In prescribing the excuse of a "personal emergency", proposed s.177D fails to satisfy the requirement that legislation is unambiguous and drafted in a sufficiently clear and precise way. The only guidance given is that there will be "serious adverse consequences to the member or the member's family". This is far too vague and ambiguous. It places members in an invidious position where their right to resign without penalty is incapable of being adequately determined by their legal advisors or a court.

25. Further uncertainty is imported by the exclusion of a personal emergency which was caused by circumstances which were known to the member when sworn in (s.177D(2)(a)). This raises difficult issues of causation.

Erosion of privacy

26. Both of the grounds of ill health and personal emergency impinge on the privacy of members.

27. Under proposed s.177C, the member must supply the Speaker with three medical certificates including one from a government doctor certifying that the member's ill health will be gravely affected if required to attend parliamentary sittings. This may require the member to submit himself or herself to at least two unknown doctors.

28. Similarly under s.177D, the member must provide the Speaker with three written statements from a religious leader, doctor or psychologist. These statements must detail the personal emergency and express the opinion that this prevents the member from attending parliament without serious adverse consequences to the member or the member's family. For many members, this requirement may put them in an embarrassing position where they are forced to reveal their private life to persons they would prefer not to, or to persons they hardly know. In those circumstances, the member's right to privacy is seriously eroded.

29. The Speaker is required by proposed s.177H to give a copy of these medical certificates and statements to the Premier and the Leader of the Opposition. Although an obligation of confidentiality thereby arises under s.177K in relation to those documents, there is still an invasion of privacy.

Other "due cause" grounds

30. The other two grounds of "due cause" in proposed s.177B are: (c) to resign in accordance with s.8A(a) and (b) of the *Legislative Assembly Act 1867* (Qld) in order to seek election to the Commonwealth Parliament; and (d) the deemed resignation under s.224 of the *Local Government Act 1993* (Qld) on being elected a local government councillor.

31. No concerns arise with these grounds in relation to the rights and liberties of members or the institution of Parliament. The only difficulty is that the reference to s.8A(a) and (b) of the *Legislative Assembly Act 1867* will be outdated when the *Parliament of Queensland Act 2001* (Qld) comes into effect on 6 June 2002 and repeals that section. However, s.14H of the *Acts Interpretation Act 1954* (Qld) appears to substitute a reference to the new provision relating to contesting a Commonwealth seat, s.76 of the *Parliament of Queensland Act 2001* (Qld), when it comes into effect.

32. However, it is not clear on what basis resignation on these grounds is justified. In each, the member has failed to serve the full parliamentary term by deliberately seeking another office. Indeed, it could be argued that there has been as much a breach of trust with the electorate in these circumstances as where a member resigns to further his career by accepting an Executive appointment, such as Agent-General for Queensland. Under the bill, resignation to assume such an appointment is not justified.

(iii) How are the costs of the by-election to be calculated?

33. A further difficulty with the bill is the calculation of the by-election costs. Proposed s.177E(2) merely states the member's liability as "an amount equal to the amount of the [electoral] commission's expenditure for the election". Under s.177F, the electoral commissioner issues a certificate stating that amount which is taken to be evidence of that expenditure. No mechanism is provided by which a former member can challenge this amount. Nor is there any guidance as to which costs may legitimately be ascribed to the commission's election expenditure. Presumably, the Auditor-General would have power to verify the amount certified. It is desirable that each of these matters be addressed in the bill.

34. A further difficulty with the bill is the lack of reference to any general enforcement mechanism in respect of the liability to repay the by-election costs. Section 177E(2) merely states that the member is liable for the commission's election expenditure. It does not provide that the amount concerned constitutes a debt due to the Crown. However, proposed ss.177I and 177J contemplate judicial enforcement by referring to a court order being made that a member is liable to pay an amount to the State.

35. Also of concern is proposed s.177G(1) which allows the Premier and the Leader of the Opposition to jointly direct, *if they consider* the member will be liable, that an amount be retained from his or her salary or superannuation up to the estimated amount of the election costs. This power ought to have been vested in an independent and impartial authority. However, the potential tyranny this power entails is alleviated by the fact that retention can only continue if legal proceedings for recovery are commenced within 30 days.

Disqualified members

36. As noted earlier, the bill penalises not only members who resign early "without due cause", but it also targets in proposed s.177E those members who lose their seat on account of being disqualified under s.7 of the *Legislative Assembly Act 1867* (Qld).

37. The grounds of disqualification presently prescribed by that provision are essentially: absence from an entire parliamentary session; assuming or acknowledging a foreign allegiance; bankruptcy; becoming a public contractor or defaulter; or being convicted of treason or a crime. However, other statutory provisions have qualified these grounds. Moreover, all the present grounds of disqualification will be repealed when the *Parliament of Queensland Act 2001* (Qld) comes into effect on 6 June 2002. However, as noted earlier, s.14H of the *Acts Interpretation Act 1954* (Qld) appears to effectively substitute on that date a reference to the new provisions of that Act relating to the disqualification of members, namely, ss.72 to 74. Under those provisions, the grounds of disqualification are substantially similar, although more precisely prescribed.

38. Apart from the issue of calculating the cost of the by-election raised above in (iii), the only concern with this aspect of the bill is whether disqualification warrants the additional penalty of being liable for any by-election costs. It is significant here that the level of culpability on the part of disqualified members varies between the grounds of disqualification. For instance, a member can be disqualified for becoming bankrupt through no personal fault, whereas another member can be disqualified for being convicted of a criminal offence. To impose liability for by-election costs on all disqualified members, irrespective of the circumstances of their case, is unfair and disproportionate.

39. The bill raises the following concerns in terms of fundamental legislative principles:

(1) In relation to the rights and liberties of individuals, the position of members of Parliament is affected in the following ways:

(a) members are rendered liable to a penalty for resigning early, in circumstances which, despite being justified, are not recognised as such by the bill;

(b) the health of members is not adequately safeguarded by requiring too serious a level of ill health before early resignation is justified;

(c) because of the bill's ambiguous terminology, members are unable to determine with any degree of confidence whether their personal circumstances will justify their early resignation;

(d) members' right to privacy is eroded;

(e) a further penalty is imposed on members who are disqualified; and

(f) the calculation of the member's liability is not expressed to be subject to any clear limits nor to any form of administrative review.

(2) In relation to the institution of Parliament, the bill may:

(a) add to the perceived disadvantages of being elected to Parliament and thereby deter

potential candidates;

(b) result in members, who are unable or unwilling to continue to perform the duties of a member for a wide range of legitimate reasons, deciding not to resign for fear of incurring the liability of by-election costs; and

(c) as a consequence of (b), the member's electorate is not effectively represented in the Parliament. This affects not only the standing and functioning of Parliament but it undermines the political rights of the member's constituents.

40. The committee refers these issues to Parliament for its consideration.

3. TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) AMENDMENT BILL 2002

Background

1. The Honourable Stephen Bredhauer MP, Minister for Transport and Minister for Main Roads, introduced this bill into the Legislative Assembly on 21 February 2002.

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

> *to amend the penalties for driving with an expired licence under the Transport Operations (Road Use Management) Act 1995.*

Does the legislation have sufficient regard to the rights and liberties of individuals?[7]

- **Clauses 3 and 7**

3. Section 78 of the *Transport Operations (Road Use Management) Act 1995*, the current version of which came into force in late 2001, provides (see subsection (1)) that a person must not drive a motor vehicle on a road unless the person holds a driver licence authorising the person to drive the vehicle on the road. Section 78(3) provides that a person convicted of an offence against this provision is, in addition to the other penalties imposed, disqualified from holding or obtaining a drivers licence for 6 months or (if the person was, at the time, disqualified under a court order from holding or obtaining a driver licence) disqualified absolutely.

4. Clause 3 of the bill amends s.78 to give effect to a policy decision against the automatic 6-month disqualification, in circumstances where the offender's driver licence has recently expired. This lessening in the severity of the disqualification regime is, however, made subject to a range of conditions.

5. As these new provisions ameliorate what the Minister in his speech describes as "excessively onerous" provisions, and operate in favour of persons convicted of unlicensed driving, they cannot be said to adversely affect the rights and liberties of such persons. Moreover, the flexibility provided by the new provisions does not seem manifestly unreasonable, or likely to prejudice road safety in general.

6. Clause 5 of the bill inserts proposed s.195, which effectively sets aside any 6-month disqualifications imposed since the current law came into force on 3 December 2001. Proposed s.195(3) provides that no compensation is payable to persons so disqualified. As the setting aside of their disqualifications is essentially the result of a change in legislative policy, and not of defective administrative or judicial procedures, the committee does not consider this provision to be objectionable.

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

7. The bill introduces a new, less stringent regime in relation to disqualification of persons convicted of driving without a driver licence, where the offender's driver licence had recently expired. The bill also sets aside any relevant disqualification orders made since the current provisions commenced in December 2001.

8. The committee does not consider the provisions of the bill adversely affect the rights and liberties of persons disqualified, nor those of the travelling public in general.

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[8]

Matters reported on to Parliament by the Scrutiny of Legislation Committee in its alert digests prior to the enactment[9] of a provision may therefore be considered as extrinsic material in its interpretation.

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

9 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

4. BUILDING AND OTHER LEGISLATION AMENDMENT BILL 2001

Background

1. The Honourable Nita Cunningham MP, Minister for Local Government and Planning, introduced this bill into the Legislative Assembly on 11 December 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 1 of 2002 at pages 1 to. 3. 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?[10]

- **Clause 4 (Proposed ss.12D and 12S) and Clause 12 (Proposed ss.104FD and 104FH)**

3. The committee noted that the bill authorises the chief executive to issue guidelines about ways of complying with the Fire Safety Standard, and for preparing fire safety management plans. Relevant persons are required to have regard to those guidelines. The committee commented that the guidelines will not be subordinate legislation and will therefore not be subject to the tabling and disallowance provisions of Part 6 of the Statutory Instruments Act 1992, nor to scrutiny by this committee.

4. The committee concluded, however, that given the subject matter of the guidelines, empowering the chief executive to generate them rather than incorporating the relevant material in regulations was probably acceptable.

5. The Minister's response was as follows:

> *The committee raised the matter of the chief executive issuing guidelines and that these guidelines will not constitute subordinate legislation.*
>
> *The legislation places the onus on building owners to comply with a prescribed fire safety standard. It also requires local governments to assess the building applications for any additional building work to be carried out to bring the buildings into compliance. Because the legislation applies to existing buildings and will involve the assessment of technical matters, extensive guidelines are necessary to ensure owners and local government officers understand their obligations under this proposed legislation.*
>
> *Under the proposed legislation, the chief executive of my department is required to consult with any potential users in preparing the guidelines to ensure that material is suitable for use by such groups.*

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[10] 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.

I do not believe it is necessary for these guidelines to be subject to the scrutiny of Parliament as they will only be explaining the legislation and associated processes.

6. 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?[11]

- **Clause 9 (proposed s.55 (2A)) and cl.18 (proposed s.1101 (2)(a))**

7. The committee noted that the bill expands current entry powers of officials to enable them to enter residential premises, where such entry is related to ensuring compliance with the bill's requirements for "budget accommodation buildings". The committee drew these extensions of entry powers to the attention of Parliament.

8. The Minister responded as follows:

The powers of entry for fire officers will ensure they can enter budget accommodation buildings to check on the compliance with the fire safety standard, particularly occupant density. Overcrowding of these types of premises was a significant issue raised during the Taskforce investigations and again during the Regulatory Impact Statement discussions. Local governments will have to advertise their intent to inspect budget accommodation buildings under an "approved inspection program" at least 14 days before such a program can commence. This gives building owners sufficient time to be aware of the inspections.

9. The committee thanks the Minister for this information.

[11] 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.

5. EDUCATION (QUEENSLAND STUDIES AUTHORITY) BILL 2001

Background

1. The Honourable Anna Bligh MP, Minister for Education, introduced this bill into the Legislative Assembly on 12 December 2001. The committee notes that this bill was passed, with amendments, on 21 February 2002.

2. The committee commented on this bill in its Alert Digest No 1 of 2002 at pages 11 to 13. The Minister's response to those comments is referred to in part below and reproduced in full in Appendix A to this Digest.

Is the legislation consistent with the principles of natural justice (the bias rule)?[12]

♦ **Clauses 6 to 21**

3. The bill establishes a single statutory authority, the Queensland Studies Authority ('the Authority'), to develop syllabuses for implementation in schools and accredit syllabuses developed by other entities. Clauses 6 to 21 of the bill establish the Authority and provide for its functions. The committee drew to the attention of Parliament a possible perception of bias should the Authority refuse to accredit a syllabus developed by a different school or school system.

4. The Minister responded as follows:

> *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—*
> >
> > *...*
> >
> > *(b) is consistent with principles of natural justice; ..."*
>
> *The Bill gives the Queensland Studies Authority (the Authority) the functions to:*
>
> - *Clause 8(a) – develop and revise 1-12 syllabuses and preschool guidelines; and*
> - *Clause 9 – accredit 1-12 syllabuses and preschool guidelines, developed by entities other than the Authority.*
>
> *The Committee identified a possible perception of bias, should the Authority refuse to accredit a syllabus developed by another entity. The Authority also has the function to develop and accredit syllabuses. The Committee noted that whilst the bias could not be for pecuniary reasons, there may be bias based on perceptions of the decision makers about, for example, the weight and importance to be given to topics being taught.*

[12] 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.

The Bill enables a regulation to be made about the accreditation of syllabuses for implementation in schools. The regulation will detail the application process and criteria upon which applications for accreditation will be considered. The regulation will also detail the process of review.

The regulation will provide clear guidelines to developers of syllabuses and the Authority itself as to the matters the Authority must consider when deciding an application for accreditation. It will prescribe the process and forum for review of decisions made on accreditation applications and other decisions of the Authority. The regulations will ensure all applicants for accreditation should be afforded natural justice.

The current bodies, the Queensland School Curriculum Council and the Board of Senior Secondary School Studies do not have an accreditation function. I have decided not to commence the Authority's accreditation function until January 2003. This will enable the newly appointed Authority to be involved in formulating the policy for application processes, criteria for consideration and review processes.

Under clause 55 (Delegation by Authority) the Authority cannot delegate the accreditation function to a committee or individual officer. However, it is possible for the Authority to require recommendations about syllabus approval and accreditation applications to be made by separate sections of the office of the Authority or by separate Committees established by the Authority. Whilst, as your committee points out, the decision is still one of the Authority's, I agree that this type of structure would minimise the potential for legitimate apprehension of bias.

Further, members of Government boards must, under the common law, act ethically and observe the highest standards of behaviour and accountability. In particular, the members of the Authority will be required to:

- *act honestly in the exercise of their powers for their proposer purposes;*
- *avoid conflicts of interest;*
- *act in good faith; and*
- *exercise diligence, care and skill.*

The people appointed as members to the Authority and employed by the Authority will be appointed because of their professional experience. I expect that they will have sufficient integrity and professionalism to make decisions with fairness and impartiality.

I note the Committee's concern, but consider that, as the regulation should outline the parameters within which decisions on accreditation should be made, together with review processes, the potential for bias is minimal. As I noted in my summary speech to the House on 21 February 2002, an alternative was to establish another body to make decisions on accreditation. I do not believe this option is in the interest of public administration or necessary in a State the size of Queensland.

5. The committee notes the Minister's response.

Does the legislation make individual rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?[13]

- **Clauses 8 and 9**

6. The committee noted the dual role of the Authority in both developing the standard syllabus and also accrediting syllabi designed by others, and the fact that the Authority is subject to judicial review. The committee referred to Parliament the question of whether some form of administrative review should be provided in relation to any full or partial rejection of a syllabus developed outside the Authority.

7. The Minister provided the following response:

> *Section 4(3)(a) 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—*
> >
> > *(a) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review;…"*
>
> *The Committee referred to Parliament the question of whether some form of review should be provided in relation to any full or partial rejection of a syllabus developed outside the Authority. The Committee noted that regulation will be made to prescribe the processes, criteria, fees and reviews around the range of Authority decisions. However, the Committee was concerned that the Authority may make decisions affecting someone's rights before the regulation is in place.*
>
> *Under its functions, the Authority will make a range of decisions that may affect the rights of or, place obligations on students, school sectors, private developers of syllabuses and other parties. As indicated by the Committee, the processes, criteria, fees and reviews of this range of decisions will be dealt with under regulation. The regulation will be made to commence upon the establishment of the Authority, which is proposed for 1 July 2002.*
>
> *However, it is intended that the Authority's accreditation function will not commence until January 2003. The regulation prescribing the process for accreditation, criteria upon which accreditation will be considered, reviews of accreditation decisions and fees payable for accreditation will be made by the date of commencement of the Authority's accreditation function.*

8. The committee notes the Minister's response.

[13] Section 4(3)(a) 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 makes rights or liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

6. LAND PROTECTION (PEST AND STOCK ROUTE MANAGEMENT) BILL 2001

Background

1. The Honourable Stephen Robertson MP, Minister for Natural Resources and Minister for Mines, introduced this bill into the Legislative Assembly on 11 December 200l. 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 1 of 2002 at pages 14 to 17. 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 legislation have sufficient regard to the rights and liberties of individuals?[14]

- **Clauses 39, 41, 42, 44, 45, 46, 76, 78, 92 and 93**

3. The bill provides for pest management for land and stock route network management. The committee noted that cls.39, 41, 42, 44, 45, 46, 76, 78, 92 and 93 of the bill create substantial monetary penalties for offences against a number of provisions of the bill, and that at least one of these offences (created by cl.46) does not require proof of intent.

4. The Minister responded as follows:

> *The* Nature Conservation Act 1992 *(Sections 88 and 89) places severe restrictions on the taking of protected animals and plants and contains a penalty of 3,000 penalty units or 2 years imprisonment. This compares with a maximum penalty of 800 units in the proposed Bill for an offence related to a Class 1 pest. The offence penalties are consistently applied for all classes of pests determined in the Bill i.e. Class 1 – 800 units, Class 2 - 400 units and Class 3 – 200 units.*
>
> *The public consultation process associated with the development of the Bill revealed that communities felt very strongly about the lack of legislation to deal with the common vectors of weed spread. Landowners have become* [increasingly] *aware of the spread of declared weeds during operations throughout the State, which involve heavy earth-moving machinery or contract grain harvesters. The purchase of drought fodder or replacement stock can also lead to the introduction to a property of new pests from distant places. A person can avoid any offence under Clause 46 of the Bill by taking reasonable steps to contain contaminant weed seed from release during the act of driving or transporting the thing on a road; or a person can wash-down or clean the vehicle so it is free of the contaminant declared pest.*
>
> *Business operators are quickly made aware of the expectations of landowners that property hygiene is expected to be an integral part of their professional practice. The expression contained in Clause 46, "ought reasonably to know", has special relevance for the business operators who have close interactions with farming communities or are involved in particular industries. There have been instances of litigation over negligence that contributed to the introduction of pests such as parthenium weed onto clean or non-infested properties. There is industry awareness of the issues and many industries have adopted*

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

voluntary codes of practice as their professional response to these concerns. These would also contribute to satisfying the requirements of the "ought reasonably to know" clause.

While this clause does indeed allow for an offence without 'intent', it does require a degree of neglect or negligence for an offence to be established.

5. The committee notes the Minister's response and thanks the Minister for this information.

♦ **Clause 77**

6. The committee noted that cl.77 of the bill requires a landowner to take reasonable steps to keep free from class 1 and class 2 pests not only the landowner's land but certain adjoining lands. The committee sought advice from the Minister as to whether in certain circumstances a landowner could discharge his or her statutory obligations by informing the relevant authorities of the existence of the pest.

7. The Minister provided the following information.

The Rural Lands Protection Act 1985 *contained similar "application to land" provisions at sections 6, 7 and 8 and an extension to these is not being sought. Large landholdings such as cattle properties have within their boundaries additional land areas, such as unfenced roads or stock routes and the bed and banks of watercourses, where livestock grazing occurs and riparian benefits are obtained from their use.*

In other situations an individual may have fenced additional land, may be obtaining a benefit from the use of additional land or may have the best access to the use of additional land, none of which is legally owned by the individual. In these situations, where there is an accruing benefit from the use of additional land, it is proposed that the landowner obligation applies in line with the "user pays" principle. A landowner would not be discharging the obligation by simply informing a local government or a Government agency as to the presence of declared pests upon the additional land area.

The registered plan of survey for the private land parcel should give the real indication as to land ownership, the intended extent of land boundaries and whether there is any public access to the additional land area. This should eliminate reliance upon convenient fencing that only suggests the land boundaries. It may well be that the private landowner may give consent for the control operation by a local government or a Government agency to proceed using the best access available through the private land.

There are many circumstances in which a landowner will be regarded as having taken reasonable steps by co-operating with larger control programs, rather than doing all the work themselves.

8. The committee thanks the Minister for this information.

♦ **Clause 312**

9. The committee sought information from the Minister as to the extent of any financial detriment, which may be suffered by members of the Rural Lands Protection Board upon the statutory abolition of their offices.

10. The Minister provided the following information:

> *Financial detriment will be minimal for the Chairperson and Members of the Rural Lands Protection Board (the Board) as both have been fully consulted during the development of the draft Bill and all were appointed knowing that the impending legislation would terminate their appointment. Pending the introduction of new legislation, which will repeal the* Rural Lands Protection Act 1985*, on 29 November 2001, the Governor in Council approved that the Chairperson and Members of the Board be appointed for a term of one year. The Chairperson receives an annual allowance and the Members receive daily meeting and special assignment fees and are paid all necessary and reasonable travelling expenses to attend three meetings per year. The Bill proposes that the Minister is to appoint the Chairperson and Members of a Land Protection (Pest and Stock Route Management) Council upon the commencement of the Act. The appointment of one or more of the existing Board members onto the proposed Council is possible.*

11. The committee thanks the Minister for this information.

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 50, 51, 80, 81, 88, 90, 152 and 251 to 277 inclusive**

12. The committee noted that by cls.50, 51, 80, 81, 88, 90, 152 and 251 to 277 inclusive, the bill confers on officials powers of entry that extend beyond situations where the occupier consents, or where a warrant has been obtained, and that once entry has been effected the bill confers on these persons significant powers to obtain information. The committee drew these extensive powers of entry, and other significant powers, to the attention of Parliament.

13. The Minister responded as follows:

> *Many of these provisions simply repeat provisions in existing legislation, that have a history of infrequent but effective and vital use.*
>
> *The provisions for barrier fences acknowledge that the pastoral industry benefits from the protection fences offer against declared pest animals such as dingoes, wild dogs and rabbits. There is to be no compulsory resumption of private land for a fence line or a right-of-way for vehicles to patrol the built fence. Instead the power of entry will enable the barrier fences to be patrolled regularly to check for holes or breakages so the fence can be maintained in an animal-proof condition. In most instances landowners have the benefit of a maintained boundary fence as well as the protection afforded livestock.*
>
> *A wide range of powers are necessary to deal with pest plants and animals that are found upon lands and waters above high-tide mark in Queensland. Recent pest invasions into the State have demonstrated how exposed we are to these events. The principle of prevention is a feature of the Bill and relies upon early detection and intervention to control pests. The processes of pest invasion are now reasonably understood and the potential for rapid change in the situation is well recognised. There are natural vectors of spread such as birds, wind, water and native animals as well as the human related ones, be they intentional introductions, or as an unintended consequence of some human related activity. The sheer mobility of animal pest species poses a particular challenge to pest management agencies*

[15] Section 4(3)(e) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to the 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.

including the smuggling and trafficking in exotic pest animals or relocations that might cause escape into the wild.

These general powers for pests on land are necessary to allow regular inspections of private land for the presence of declared pests. Otherwise, landholders who are exercising appropriate pest management will not be satisfied that authorised officers are checking that a similar level of management is occurring on neighbouring properties. The right of individuals to have the full enjoyment and ownership of private land is recognised. This right must be balanced with community expectations that declared pests should be controlled to preserve the productive capacity of our natural resources and to protect the environment. Community investment in pest management can be nullified by the inaction of a small number of landowners. Effective pest management can only be achieved through the participation of the wider community.

Every effort will be made through advertising of pest survey programs to alert communities of the need to be vigilant for the presence of pests. Wherever possible notice in writing will be given to gain entry upon the land for control actions and, in emergency situations, communities will be regularly informed on the nature of the emergency, the type of activities to be undertaken and the reasons for taking the particular actions.

The fencing order provision acknowledges the need to manage the stock route network so that it fulfils its primary function for the use of travelling stock. Where an unfenced stock route is under grazing pressure from private livestock, a local government may give an order to the adjoining landowner to reduce stock numbers over the area to prevent continuing degradation. If the number of livestock are not subsequently reduced, a notice to fence out the stock route can be given to the adjoining landowner. A local government can undertake the fencing and debit the cost to the adjoining landowner if there is no compliance with the notice.

14. The committee notes the Minister's response and thanks him for this information.

7. PRIVATE EMPLOYMENT AGENCIES AND OTHER ACTS AMENDMENT BILL 2001

Background

1. The Honourable Gordon Nuttall MP, Minister for Industrial Relations, introduced this bill into the Legislative Assembly on 12 December 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 1 of 2002 at pages 20 to 22. 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 legislation provide for the reversal of the onus of proof in criminal proceedings without adequate justification?[16]

- **Clause 20 (proposed ss.36 and 37)**

3. Clause 20 of this bill inserts new ss.35 to 37 into the *Private Employment Agencies Act 1983*. The committee noted that cl.20 effectively reverses the onus of proof in proceedings for offences against the bill's provisions, and referred to Parliament the question of whether, in the circumstances, this reversal is justified.

4. The Minister provided the following response:

> *Clause 20 omits existing sections 35 to 38 of the Private Employment Agencies Act 1983 and inserts new sections 35 to 37. The clause captures the existing legislative prescriptions regarding the need for private employment agents to clearly identify themselves in publications and their responsibility for the actions of employees who may be nominees on behalf of partnerships or corporations.*
>
> *New sections 36 and 37, which relate to the responsibility for acts or omissions of representatives and that executive officers must ensure a corporation complies with the Act, are considered justifiable and necessary to prevent unscrupulous private employment agents sheltering behind employees or corporations and for the effective enforcement of the legislation.*

5. The committee notes the Minister's response.

[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.

Is the legislation consistent with the principles of natural justice?[17]

- **Clause 29**

6. Clause 29 of the bill amends s.139(2) of the *Industrial Relations Act 1999*, which deals with representation of parties in proceedings before the Queensland Industrial Relations Commission ('the commission'). The committee noted that cl.29 prohibits legal representation of parties before the commission in actions to recover fees illegally paid by work seekers to private employment agencies. The committee referred to Parliament the appropriateness of the restriction upon a person's capacity to be represented by a lawyer.

7. The Minister provided the following response:

> *Clause 29 amends section 319 of the Industrial Relations Act 1999 to restrict the capacity for legal representation at the Queensland Industrial Relations Commission (QIRC) in proceedings relating to a claim for the repayment of a fee received by a private employment agent. This provision mirrors that applying in the case of an application to the QIRC to recover unpaid wages under section 278 and has regard to the principles of natural justice.*
>
> *In this regard, the QIRC has traditionally been a lay tribunal, with parties typically represented by lay representatives (usually industrial advocates employed by unions and employer organisations or industrial officers of the Department of Industrial Relations). In the QIRC, the most effective representatives are not necessarily lawyers but those who understand the jurisdiction.*

8. The committee notes the Minister's response.

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

AMENDMENTS TO BILLS[18]

EDUCATION (QUEENSLAND STUDIES AUTHORITY) BILL 2001

The committee reported on this bill, as originally introduced, in its Alert Digest No 1 of 2002 at pages 11-13. During the committee stage of debate, Parliament agreed to certain amendments proposed by the Minister sponsoring the bill, the Honourable Anna Bligh MP, Minister for Education. The bill was subsequently passed, with the amendments proposed by the Minister incorporated in it, on 21 February 2002.

The amendments proposed by the Minister raised no issues within the committee's terms of reference.

SUBCONTRACTORS' CHARGES AMENDMENT BILL 2001

The committee reported on this bill, as originally introduced, in its Alert Digest No 9 of 2001 at pages 23-25. During the committee stage of debate, Parliament agreed to certain amendments proposed by the Minister sponsoring the bill, the Honourable R E Schwarten MP, Minister for Public Works and Minister for Housing. The bill was subsequently passed, with the amendments proposed by the Minister incorporated in it, on 21 February 2002.

The amendments proposed by the Minister raised no issues within the committee's terms of reference.

This concludes the Scrutiny of Legislation Committee's 2nd report to Parliament in 2002.

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

6 March 2002

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[18] On Wednesday 7 November 2001, Parliament resolved as follows:

> *the House confers upon the Scrutiny of Legislation Committee the function and discretion to examine and report to the House, if it so wishes, on the application of the Fundamental Legislative Principles to amendments* (to bills)*, whether or not the bill to which the amendments relate has received Royal Assent.*

On 18 February 2002 the committee resolved to commence reporting on amendments to bills, on the following basis:

- *all proposed amendments of which prior notice has been given to the committee will be scrutinised and included in the report on the relevant bill in the Alert Digest, if time permits*
- *the committee will not normally attempt to scrutinise or report on amendments moved on the floor of the House, without reasonable prior notice, during debate on a bill*
- *the committee will ultimately scrutinise and report on all amendments, even where that cannot be done until after the bill has been passed by Parliament (or assented to), except where the amendment was defeated or the bill to which it relates was passed before the committee could report on the bill itself.*

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[19] to particular Bills and particular subordinate legislation; and

(b) the lawfulness of particular subordinate legislation;

by examining all Bills and subordinate legislation[20].

(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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19 "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.

20 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.[21]

(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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[21] 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.