



New South Wales

Local Government (Review of Legislative Proposals) Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to establish a joint committee of Parliament to be known as the Local Government Legislative Review Committee (the *Committee*), and
- (b) to enable a Bill that has been introduced into a House of Parliament to be referred to the Committee for a report on its potential impact on the exercise of functions by local councils (including whether the Bill would be likely to impose any significant financial or other burden on any local council without providing appropriate funding and resources), and
- (c) to require the Committee to investigate the potential impact of any referred Bill and then to report that impact to both Houses of Parliament in order to facilitate informed decision-making by members of Parliament.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 sets out the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 provides that the proposed Act extends to a Bill that is before Parliament even if the Bill was introduced before the commencement of the proposed Act.

Clause 6 provides that the proposed Act binds the Crown.

Part 2 Review of Bills affecting local government

Clause 7 enables a Member of a House of Parliament into which a Bill is introduced to move a resolution that the House refer the Bill to the Committee for a report on its potential impact on local government.

Clause 8 provides that a Bill that is the subject of such a resolution will be referred to the Committee by a House of Parliament if the House passes the resolution within the period of 10 sitting days after the date on which the resolution is moved or does not vote on the resolution within that period.

Clause 9 provides that neither House of Parliament may pass or amend a referred Bill until either the reporting period for the Bill has elapsed or the Committee has reported to Parliament on the Bill (whichever occurs first). The reporting period for a referred Bill is defined in proposed section 4 (1) to mean the period of 28 sitting days of the referring House after the day on which the Bill is referred to the Committee for a report or such longer period as may have been specified in the resolution referring the Bill to the Committee.

Clause 10 provides for the matters that the Committee must consider if a Bill is referred to it. In particular, it must consider whether a referred Bill would (if enacted and in force):

- (a) impose or confer (or authorise any person or body to impose or confer) any additional function on any local council or expand the scope of any existing function of any local council, or
- (b) be likely to impose any significant financial or other burden on any local council without providing appropriate funding and resources.

The proposed section also requires the Committee to report to both Houses of Parliament on the referred Bill on or before the day on which the reporting period expires.

Part 3 Local Government Legislative Review Committee

Clause 11 requires a joint committee of members of Parliament, to be known as the Local Government Legislative Review Committee, to be appointed as soon as practicable after the commencement of Part 3 of the proposed Act and the commencement of the first Session of each Parliament.

Clause 12 provides for the membership of the Committee.

Clause 13 gives effect to Schedule 1, which contains general provisions relating to the members and proceedings of the Committee.

Part 4 Miscellaneous

Clause 14 provides that proceedings for an offence under the proposed Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Clause 15 requires the Committee to furnish both Houses of Parliament with a report on its operations as soon as possible after the first 2 years after the commencement of the proposed Act.

Clause 16 enables the Governor to make regulations under the proposed Act.

Clause 17 requires the Minister to conduct a review of the proposed Act as soon as possible after the period of 5 years from the date of assent to the proposed Act.

Local Government (Review of Legislative Proposals) Bill 2001

Explanatory note

Schedule 1 Provisions relating to members and proceedings of Committee

Schedule 1 contains provisions relating to vacation of office, the Chairperson and Vice-Chairperson of the Committee and the procedure of the Committee.



New South Wales

Local Government (Review of Legislative Proposals) Bill 2001

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New South Wales

Local Government (Review of Legislative Proposals) Bill 2001

No , 2001

A Bill for

An Act to provide for the establishment and functions of a Local Government
Legislative Review Committee of Parliament to facilitate Parliament's consideration
of the potential impact of Bills on local government, and for other purposes.

Clause 1 Local Government (Review of Legislative Proposals) Bill 2001

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Local Government (Review of Legislative Proposals) Act 2001*. 4
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2 Commencement 6

This Act commences on the date of assent to this Act. 7

3 Objects 8

The objects of this Bill are as follows: 9

- (a) to establish a joint committee of Parliament to be known as the Local Government Legislative Review Committee, 10
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- (b) to enable a Bill that has been introduced into a House of Parliament to be referred to the Committee for a report on its potential impact on the exercise of functions by local councils (including whether the Bill would be likely to impose any significant financial or other burden on any local council without providing appropriate funding and resources), 12
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- (c) to require the Committee to investigate the potential impact of any referred Bill and then to report that impact to both Houses of Parliament in order to facilitate informed decision-making by members of Parliament. 18
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4 Definitions 22

(1) In this Act: 23

Committee means the Local Government Legislative Review Committee for the time being constituted under this Act. 24
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exercise a function includes perform a duty. 26

function includes a power, authority or duty. 27

referred Bill means a Bill that has been referred to the Committee for a report under Part 2. 28
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referring House means the House of Parliament that refers a Bill to the Committee for a report under Part 2. 30
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<i>reporting period</i> for a referred Bill means:	1
(a) the period of 28 sitting days of the referring House after the day on which the Bill is referred to the Committee for a report, or	2 3
(b) such longer period as may have been specified in the resolution to refer the Bill to the Committee moved under section 7.	4 5
<i>sitting day</i> , in relation to a referred Bill, means a sitting day of the referring House.	6 7
(2) Notes included in this Act do not form part of this Act.	8
5 Application of Act	9
This Act extends to any Bill that is before a House of Parliament even if that Bill was introduced in that House before the commencement of this Act.	10 11 12
6 Act to bind Crown	13
This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	14 15 16

Part 2	Review of Bills affecting local government	1
7	Procedure for referring Bills to Committee	2
(1)	A member of a House of Parliament into which a Bill has been introduced may, at any time after the first reading of the Bill in that House but before the third reading of the Bill, move a resolution that the House refer the Bill to the Committee for a report on its potential impact on local government.	3 4 5 6 7
(2)	Any such resolution may specify a reporting period within which the Committee is to report on the Bill (being a period that is not less than the period of 28 sitting days after the date of the referral).	8 9 10
(3)	A member may not move a resolution under subsection (1) in respect of a Bill if the Bill has already been referred to the Committee by a House of Parliament.	11 12 13
8	When Bill is referred to Committee	14
	A Bill that is the subject of a resolution moved under section 7 is referred to the Committee by the House of Parliament in which the resolution is moved if:	15 16 17
(a)	the House passes the resolution within 10 sitting days after the date on which the resolution is moved, or	18 19
(b)	the House does not vote on the resolution within 10 sitting days after the date on which the resolution is moved.	20 21
9	Effect of a referral	22
	If a Bill is referred to the Committee for a report by operation of section 8, neither House of Parliament may pass or amend the referred Bill until:	23 24 25
(a)	the reporting period for the Bill has expired, or	26
(b)	the Committee has furnished a report on the Bill to both Houses of Parliament in accordance with section 10,	27 28
	whichever occurs first.	29

10 Review by Committee of referred Bill	1
(1) The Committee is to consider whether a referred Bill would (if enacted and in force):	2 3
(a) impose or confer (or authorise any person or body to impose or confer) any additional function on any local council or expand the scope of any existing function of any local council, or	4 5 6
(b) be likely to impose any significant financial or other burden on any local council without providing appropriate funding and resources.	7 8 9
(2) Following any such consideration, the Committee is to furnish both Houses of Parliament with a report on the following matters:	10 11
(a) the nature and extent of any burden that may be imposed on local councils by or under the referred Bill if it were enacted and in force,	12 13 14
(b) the extent (if any) to which any council would be, or would need to be, provided with appropriate funding and resources to carry out any additional or expanded functions that may be imposed or conferred by or under the referred Bill if it were enacted and in force,	15 16 17 18 19
(c) any other matter that the Committee considers relevant.	20
(3) The Committee must furnish the report to both Houses of Parliament on or before the day on which the reporting period expires.	21 22
Note. Schedule 1 confers certain investigative powers on the Committee to enable it to carry out its functions. Clause 5 of that Schedule also provides for how reports may be furnished to a House of Parliament when that House is not sitting.	23 24 25

Part 3 Local Government Legislative Review Committee	1
11 Constitution of Committee	2
(1) As soon as practicable after the commencement of this Part and the commencement of the first Session of each Parliament, a joint committee of members of Parliament, to be known as the Local Government Legislative Review Committee, is to be appointed.	3 4 5 6
(2) The Committee has the functions conferred or imposed on it by or under this Act or any other Act.	7 8
12 Membership of Committee	9
(1) The Committee is to consist of 11 members, of whom:	10
(a) 5 are to be members of, and appointed by, the Legislative Council, and	11 12
(b) 6 are to be members of, and appointed by, the Legislative Assembly.	13 14
(2) The appointment of members of the Committee is, as far as practicable, to be in accordance with the practice of Parliament with respect to the appointment of members to serve on joint committees of both Houses of Parliament.	15 16 17 18
(3) A person is not eligible for appointment as a member of the Committee if the person is a Minister of the Crown or a Parliamentary Secretary.	19 20 21
13 Provisions relating to members and proceedings of Committee	22
Schedule 1 has effect with respect to the Committee.	23

Part 4 Miscellaneous	1
14 Proceedings for offences	2
Proceedings for an offence under this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.	3 4 5
15 Reports as to the Committee's operations	6
(1) The Committee is to furnish a report to both Houses of Parliament as soon as possible after the first 2 years after the commencement of this Act.	7 8 9
(2) The report is to relate to the past and current activities of the Committee (however constituted) and the past and current arrangements concerning its operations.	10 11 12
(3) The report may include such recommendations respecting the future activities of the Committee (however constituted) and arrangements as it thinks appropriate.	13 14 15
16 Regulations	16
(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	17 18 19 20
(2) The regulations may create offences punishable by a penalty not exceeding 5 penalty units.	21 22
17 Review of Act	23
(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	24 25 26
(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	27 28
(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	29 30

Schedule 1	Provisions relating to members and proceedings of Committee	1
		2
	(Section 13)	3
1	Definitions	4
	In this Schedule:	5
	<i>Chairperson</i> means the Chairperson of the Committee.	6
	<i>Vice-Chairperson</i> means the Vice-Chairperson of the Committee.	7
2	Vacancies	8
(1)	A member of the Committee ceases to hold office:	9
(a)	when the Legislative Assembly is dissolved or expires by the effluxion of time, or	10 11
(b)	if the member becomes a Minister of the Crown or a Parliamentary Secretary, or	12 13
(c)	if the member ceases to be a member of the Legislative Council or Legislative Assembly, or	14 15
(d)	if, being a member of the Legislative Council, the member resigns the office by instrument in writing addressed to the President of the Legislative Council, or	16 17 18
(e)	if, being a member of the Legislative Assembly, the member resigns the office by instrument in writing addressed to the Speaker of the Legislative Assembly, or	19 20 21
(f)	if the member is discharged from office by the House of Parliament to which the member belongs.	22 23
(2)	Either House of Parliament may appoint one of its members to fill a vacancy among the members of the Committee appointed by that House.	24 25 26
3	Chairperson and Vice-Chairperson	27
(1)	There is to be a Chairperson and a Vice-Chairperson of the Committee, who are to be elected by and from the members of the Committee.	28 29 30

(2) A member of the Committee ceases to hold office as Chairperson or Vice-Chairperson of the Committee if:	1
(a) the member ceases to be a member of the Committee, or	2
(b) the member resigns the office by instrument in writing presented to a meeting of the Committee, or	3
(c) the member is discharged from office by the Committee.	4
(3) At any time when the Chairperson is absent from New South Wales or is, for any reason, unable to perform the duties of Chairperson or there is a vacancy in that office, the Vice-Chairperson may exercise the functions of the Chairperson under this Act or under the <i>Parliamentary Evidence Act 1901</i> .	5
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4 Procedure	12
(1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee.	13
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(2) The Clerk of the Legislative Assembly is to call the first meeting of the Committee in each Parliament in such manner as the Clerk thinks fit.	16
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(3) At a meeting of the Committee, 6 members constitute a quorum, but the committee must meet as a joint committee at all times.	18
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(4) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson (or, in the absence of both the Chairperson and the Vice-Chairperson, a member of the Committee elected to chair the meeting by the members present) is to preside at a meeting of the Committee.	20
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(5) The Vice-Chairperson or other member presiding at a meeting of the Committee has, in relation to the meeting, all the functions of the Chairperson.	25
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(6) The Chairperson, Vice-Chairperson or other member presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.	28
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(7) A question arising at a meeting of the Committee is to be determined by a majority of the votes of the members present and voting.	31
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(8) The Committee may sit and transact business despite any prorogation of the Houses of Parliament or any adjournment of either House of Parliament.	33
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(9) The Committee may sit and transact business on a sitting day of a House of Parliament during the time of sitting.	1 2
5 Reporting when Parliament not in session	3
(1) If a House of Parliament is not sitting when the Committee seeks to furnish a report to it, the Committee may present copies of the report to the Clerk of the House.	4 5 6
(2) The report:	7
(a) on presentation and for all purposes is taken to have been laid before the House, and	8 9
(b) may be printed by authority of the Clerk, and	10
(c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and	11 12 13
(d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the report by the Clerk.	14 15 16
6 Evidence	17
(1) The Committee has power to send for persons, papers and records.	18
(2) Subject to clause 7, the Committee must take all evidence in public.	19
(3) If the Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken the evidence.	20 21 22 23 24
(4) The production of documents to the Committee is to be in accordance with the practice of the Legislative Assembly with respect to the production of documents to select committees of the Legislative Assembly.	25 26 27 28
7 Confidentiality	29
(1) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or the person producing the document must:	30 31 32 33 34

(a)	take the evidence in private, or	1
(b)	direct that the document, or the part of the document, be treated as confidential.	2 3
(2)	If a direction under subclause (1) applies to a document or part of a document produced to the Committee:	4 5
(a)	the contents of the document or part are, for the purposes of this clause, to be regarded as evidence given by the person producing the document or part and taken by the Committee in private, and	6 7 8 9
(b)	the person producing the document or part is, for the purposes of this clause, to be regarded as a witness.	10 11
(3)	If, at the request of a witness, evidence is taken by the Committee in private:	12 13
(a)	the Committee must not, without the consent in writing of the witness, and	14 15
(b)	a person (including a member of the Committee) must not, without the consent in writing of the witness and the authority of the Committee under subclause (5),	16 17 18
	disclose or publish the whole or a part of that evidence.	19
	Maximum penalty (subclause (3)): 20 penalty units or imprisonment for 3 months, or both.	20 21
(4)	If evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) must not, without the authority of the Committee under subclause (5), disclose or publish the whole or part of that evidence.	22 23 24 25
	Maximum penalty (subclause (4)): 20 penalty units or imprisonment for 3 months, or both.	26 27
(5)	The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairperson, authorise the disclosure or publication of evidence taken in private by the Committee, but this subclause does not operate so as to affect the necessity for the consent of a witness under subclause (3).	28 29 30 31 32
(6)	Nothing in this clause prohibits:	33
(a)	the disclosure or publication of evidence that has already been lawfully published, or	34 35

(b)	the disclosure or publication by a person of a matter of which the person has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.	1 2 3
(7)	This clause has effect despite section 4 of the <i>Parliamentary Papers (Supplementary Provisions) Act 1975</i> .	4 5
(8)	If evidence taken by the Committee in private is disclosed or published in accordance with this clause:	6 7
(a)	sections 5 and 6 of the <i>Parliamentary Papers (Supplementary Provisions) Act 1975</i> apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act, and	8 9 10 11
(b)	Division 5 of Part 3 of, and Schedule 2 to, the <i>Defamation Act 1974</i> apply to and in relation to that evidence as if it were taken by the Committee in public.	12 13 14
8	Application of certain Acts	15
	For the purposes of the <i>Parliamentary Evidence Act 1901</i> and the <i>Parliamentary Papers (Supplementary Provisions) Act 1975</i> and for any other purposes:	16 17 18
(a)	the Committee is to be regarded as a joint committee of the Legislative Council and Legislative Assembly, and	19 20
(b)	the proposal for the appointment of the Committee is to be regarded as having originated in the Legislative Assembly.	21 22
9	Validity of certain acts or proceedings	23
	Any act or proceeding of the Committee is, even though at the time when the act or proceeding was done, taken or commenced there was:	24 25
(a)	a vacancy in the office of a member of the Committee, or	26
(b)	any defect in the appointment, or any disqualification, of a member of the Committee,	27 28
	as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.	29 30