



## **Minutes of Proceedings of the Legislation Review Committee**

Friday, 29 April 2005, 12.00 pm

Room 1136, Parliament House

### **Members Present**

The Hon Peter Primrose MLC (Chairman)

Ms Virginia Judge (Vice-chairman)

Ms Linda Burney MP

Ms Shelley Hancock MP

The Hon Don Harwin MLC

Ms Noreen Hay MP

Mr Russell Turner MP

### **Staff Present**

Mr Russell Keith, Committee Manager

Ms Indira Rosenthal, Senior Committee Officer

Mr Mel Keenan, Senior Committee Officer

Ms Rachel White, Committee Officer

### **Apologies**

The Hon Dr Peter Wong MLC

## **1. FORMAL BUSINESS**

**RESOLVED** on the motion of Ms Judge, seconded by Ms Hay:

...

### **Incoming correspondence**

In relation to item 5(b), that the Committee adopt the reports on the following incoming correspondence:

- (i) Letter dated 20 March 2005 from the Minister for Energy & Utilities regarding the **Electricity Supply Amendment Bill 2005**;
- (ii) Letter dated 1 April 2005 from the Minister for Police regarding the **Road Transport (General) Amendment (Licence Suspension) Bill 2004**;
- (iii) Letter dated 18 April 2005 from the Minister for Justice regarding the **Prisoners (Interstate Transfer) Amendment Bill 2005**; and

- (iv) Letter dated 19 April 2005 from the Minister for Justice regarding the **Civil Liability Amendment (Offender Damages) Bill 2005**.

### **Consideration of Bills**

That the Committee adopt the report on the **Game and Feral Animal Control Amendment Bill 2005** (Item 6(d)).

...

## **2. INCOMING CORRESPONDENCE**

**Item 5(b)(iii)** Letter received on 7 April 2005 from the Attorney General regarding the **Legal Profession Act 2004** (*Committee Paper 4203a*).

**RESOLVED** on the motion of Ms Judge, seconded by Mr Turner, that the Committee write to the Attorney General to:

- thank him for his response; and
- request that it be advised of the outcome of the National Legal Profession Joint Working Group's consideration of the proposal that legislation regulating the legal profession in all jurisdictions include a requirement that a person be informed of their right to object to questioning and the nature, extent and consequences of that right.

**Item 5(b)(vi)** Letter received on 21 April 2005 from the Minister for Tourism and Sport and Recreation regarding the **Centennial Park and Moore Park Trust Regulation 2004** (*Committee Paper 4153a*).

**RESOLVED** on the motion of Ms Burney, seconded by Ms Judge, that the Committee:

- reply to the Minister to:
  - note that 2,455 penalty notices in the 2003-04 financial year totalling some \$265,000 indicates frequent use of the last resort policy of infringing;
  - note that it does not consider that reference to penalties for desecration of a protected place answers the Committee's concerns regarding the relative severity for the more trivial offences under the Regulation (noting that damaging or desecrating protected places under s 8(2) of the *Summary Offences Act 1988* carries the maximum penalty of 20 penalty units);
  - note that the 10 penalty units imposed by the Regulation for offences under clauses 16(n), 18(b) and 25(a) contrast with the 4 penalty unit and 6 penalty unit penalties for the equivalent offences under ss 7 and 4A of the *Summary Offences Act 1988*; and
  - seek an explanation of why she considers it appropriate to prescribe the same maximum penalty for both significant and relatively trivial offences, particularly when some of those penalties are in excess of penalties set by Parliament for equivalent offences in the *Summary Offences Act 1988*; and
- publish the Committee's letter of 5 November 2004 and its reply of 29 April 2005 and the Minister's letter of 21 April 2005 in the *Digest*.

## **3. CONSIDERATION OF BILLS UNDER THE LEGISLATION REVIEW ACT 1987**

**Item 6(a)** **Civil Procedure Bill 2005**  
*Committee Paper 4261*

**RESOLVED** on the motion of Ms Judge, seconded by Mr Turner, that the Committee adopt the report on the Bill.

**Item 6(b) Coal Acquisition Amendment (Fair Compensation) Bill 2005**  
*Committee Paper 4253*

**RESOLVED** on the motion of Ms Burney, seconded by Ms Judge, that the Committee adopt the report on the Bill.

**Item 6(c) Energy Administration Amendment (Water and Energy Savings) Bill 2005**  
*Committee Paper 4253*

**Motion** moved by Ms Judge, seconded by Ms Hay, that the Committee adopt the report on the Bill, with an amendment to

- note that the Bill, in providing for the Government to prescribe a State agency (including a local council) as a State water agency by regulation and thereby subjecting that agency to requirements to make annual contributions, is a significant delegation of legislative power; and
- conclude that as any such regulation would be subject to disallowance by either House of Parliament, this does not constitute an inappropriate delegation of legislative power.

Upon which Mr Turner moved that the motion be amended by deleting the second dot point and adding instead:

- refer to Parliament the question as to whether this comprises an inappropriate delegation of legislative power.

Question: that the amendment of Mr Turner be agreed to put and negatived.

Original motion put and passed.

...

**4. LEGISLATION REVIEW DIGEST**

Approval of the *Legislation Review Digest* No 5 of 2005 for tabling.

**RESOLVED** on the motion of Ms Judge, seconded by Mr Turner, that, subject to any minor corrections, *Legislation Review Digest* 5 of 2005 be adopted and tabled.

---

Chairman

---

Committee Manager