

## SUMMARY OF CONCLUSIONS

### 1. Commission For Children And Young People Amendment Bill 2009

**Issue: Privacy – Proposed section 38A *Commission for Children and Young People Act 1998*; Proposed section 13(4A) *Criminal Records Act 1991***

15. The Committee notes the that intention of the Bill is to protect children through ensuring that complete and reliable criminal history information is available across jurisdictions through the working with children check. However, the Committee refers to Parliament whether the Bill, including proposed section 38A strikes the appropriate balance between the personal rights of the individual, in particular the right to privacy and the interests of the community.

**Issue: Proposed section 38A(4) – Inappropriate delegation of legislative power**

17. The Committee is of the view that any proposed amendments to extend the application of the one year trial period of proposed section 38A *Commission for Children and Young People Act 1998* could be more appropriately made by an amending Act rather than through the Regulations. Accordingly, the Committee refers to Parliament for its consideration whether proposed section 38A(4) is an inappropriate delegation of legislative power.

**Issue: Clause 2 – Commencement by Proclamation - Provide the executive with unfettered control over the commencement of an Act.**

19. The Committee accepts the above reasons and has not identified any issues identified under s 8A (1)(b)(iv) of the Legislation Review Act 1987.

### 2. Criminal Procedure Amendment (Case Management) Bill 2009

**Issue: Right To Silence and Onus Of Proof – Schedule 1 [4]: Clause 143 (Defence response – court-ordered pre-trial disclosure); Clause 145 (Dispensing with formal proof), Clause 146 (Sanctions for non-compliance with pre-trial disclosure requirements):**

29. The Committee, therefore, is of the view that clauses 143, 145 and 146 potentially undermine the right to silence, onus of proof or the presumption of innocence notwithstanding that clause 148 enables discretion for the courts to waive any requirements of the pre-trial disclosure requirements under Division 3.
30. The Committee also notes the relevant reports of the SCAG Working Group on Criminal Trial Reform, the SCAG Deliberative Forum, the Law Reform Commission of Western Australia and the NSW Law Reform Commission during the period of 1999 and 2000, which had recommended reciprocal pre-trial disclosure for the prosecution and the defence. Accordingly, the Committee does not consider the Bill as unduly trespassing on individual rights and liberties.

**Issue: Clause 2 - Commencement by proclamation - Provide the executive with unfettered control over the commencement of an Act:**

32. The Committee accepts the advice above and has not identified any issues identified under s 8A(1)(b)(iv) of the *Legislation Review Act 1987*.

### **3. Food Amendment (Food Safety Supervisors) Bill 2009**

**Issue: Clause 2 – Commencement by Proclamation - Provide the executive with unfettered control over the commencement of an Act.**

12. The Committee notes the above reasons and has not identified any issues identified under s 8A (1)(b)(iv) of the *Legislation Review Act 1987*.

### **4. Health Practitioner Regulation Bill 2009**

18. The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.

### **5. Passenger Transport Amendment (Taxi Licensing) Bill 2009**

**Issue: Retrospectivity – Schedule 1 [12]: insertion of proposed Part 12 into Schedule 3 – Provisions consequent on enactment of *Passenger Transport Amendment (Taxi Licensing) Act 2009*:**

19. The Committee will always be concerned to identify the retrospective effects of legislation that may have an adverse impact on a person. However, the Committee considers that the retrospectivity of the proposed Part 12 to be inserted into Schedule 3 of the Principal Act, does not, in this instance, unduly trespass on individual rights as it aims to provide a seamless transition and to provide arrangements to cover the conditions and licences existing before the commencement of the proposed Act.
20. Therefore, the Committee is of the view that by inserting savings and transitional provisions as a consequence of the enactment of the proposed Act, under proposed Part 12 of Schedule 3 contained in the Schedule 1 [12] of the Bill, does not trespass unduly on individual rights.

### **6. Road Transport (Vehicle Registration) Amendment (Special Number-Plates) Bill 2009**

11. The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*.

### **7. State Revenue Further Amendment Bill (No 2) 2009**

16. The Committee has not identified any issues under s 8A(1)(b) of the *Legislation Review Act 1987*

**8. Wine Grapes Marketing Board (Reconstitution) Amendment  
(Extension) Bill 2009**

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| 13. The Committee has not <i>identified any issues under s 8A(1)(b) of the Legislation Review Act 1987.</i> |
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