



SUMMARY OF CONCLUSIONS

***LEGISLATION REVIEW DIGEST* No. 4 of 2006**

4 April 2006

Legislation Review Digest No. 4 of 2006 contains the Legislation Review Committee's consideration of bills introduced into Parliament in the sitting week beginning 28 March 2006 and any reports on regulations since the previous *Digest*.

The Bills reported on include:

- **Courts Legislation Amendment Bill 2006;**
- **Crimes Amendment (Organised Car and boat Theft) Bill 2006;**
- **Environmental Planning and Assessment Amendment (Reserved Land Acquisition) Bill 2006;**
- **Motor Vehicle Repairs (Anti-steering) Bill 2006*;**
- **Smoke-free Environment (Removal of Exemptions) Bill 2006*;** and
- **Workers Compensation Legislation Amendment Bill 2006.**

SUMMARY OF CONCLUSIONS

SECTION A: Comment on Bills

1. Courts Legislation Amendment Bill 2006

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| 7. | In the circumstances, the Committee does not consider that the revival of cases taken to have been dismissed unduly trespasses on personal rights and liberties. |
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2. Crimes Amendment (Organised Car and Boat Theft) Bill 2006

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| 4. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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3. Environmental Planning and Assessment Amendment (Reserved Land Acquisition) Bill 2006

Retrospectivity: Clause 2

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| 15. | The Committee will always be concerned to identify any retrospective effect of legislation which adversely impacts on any person. |
| 16. | The Committee notes that the Minister's explanation, in his second reading speech, for commencing the Bill from the day on which notice of motion was given of an intention to introduce the Bill. |
| 17. | The Committee is of the view that, having regard to the need to prevent any opportunistic acquisition demands, the retrospective application of these amendments is not an undue trespass on personal rights or liberties. |

4. Motor Vehicle Repairs (Anti-steering) Bill 2006*

Retrospectivity: cl 2

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| 5. | The Committee notes that the Bill sets the commencement date for the Act to be 1 June 2006 and that, if the Act is passed after that date, it will thereby purport to commence the Act retrospectively. |
| 6. | The Committee refers to Parliament whether this potential for retrospective commencement of the Act unduly trespasses on personal rights and liberties. |

Retrospectivity: cll 5 & 6

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| 10. | The Committee notes that the Bill appears to alter the terms of existing insurance policies and contracts between insurers and repairers to comply with the anti-steering provisions of clauses 5 and 6. |
| 11. | The Committee refers to Parliament the question as to whether the retrospective effect of the Bill unduly trespasses on personal rights and liberties. |

Strict liability: cll 11, 12, 13 & 15

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| 15. | The Committee is of the view that strict liability is a very serious matter and should: |
| - | be imposed only after careful consideration of all available options; |
| - | be subject to defences wherever possible where contravention appears reasonable; and |
| - | have only limited monetary penalties and no terms of imprisonment. |

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| 16. The Committee refers to Parliament whether the penalties up to \$165,000 and imprisonment for 12 months for the second or subsequent committing of strict liability offences under the Bill inappropriately trespasses on personal rights and liberties. |
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5. Smoke-free Environment Amendment (Removal of Exemptions) Bill 2006*

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| 3. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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6. Workers Compensation Legislation Amendment Bill

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| 5. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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The Legislation Review Committee reports on whether each bill introduced into Parliament:

- (i) trespasses unduly on personal rights and liberties, or
- (ii) makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, or
- (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions, or
- (iv) inappropriately delegates legislative powers, or
- (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

Those bills marked with an * are sponsored by Private Members.

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