



SUMMARY OF CONCLUSIONS

***LEGISLATION REVIEW DIGEST* No. 1 of 2006**

27 February 2006

Legislation Review Digest No. 1 of 2006 contains the Legislation Review Committee's consideration of bills introduced into Parliament in the sitting week beginning 29 November 2005 and any reports on regulations since the previous *Digest*.

The Bills reported on include:

- **Crimes and Courts Legislation Amendment Bill 2005;**
- **Freedom of Information Amendment (Open Government-Disclosure of Contracts) Bill 2005;***
- **James Hardie Former Subsidiaries (Winding up and Administration) Bill 2005, James Hardie (Civil Liability) Bill 2005, James Hardie (Civil Penalty Compensation Release) Bill 2005;**
- **Law Enforcement Legislation Amendment (Public Safety) Bill 2005;**
- **Police Amendment (Death and Disability) Bill 2005;**
- **Workers Compensation Legislation Amendment (Miscellaneous Provisions) Bill 2005.**

Correspondence on Bills includes:

- **Companion Animals Amendment Bill 2005;**
- **Confiscation of Proceeds of Crime Amendment Bill 2005;**
- **Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill 2005;**
- **Crimes Amendment (Road Accidents) Bill 2005;**
- **State Revenue Legislation Amendment Bill 2005;**
- **Vocational Education and Training Bill 2005.**

Correspondence on Regulations includes:

- **Centennial Park and Moore Park Trust Regulation 2004;**
- **Companion Animals Amendment (Penalty Notices) Regulation 2005;**
- **Hunter Water (General) Regulation 2005;**

- **Protection of the Environment Operations (Waste) Regulation 2005;**
- **Stock Diseases (General) Amendment Regulation 2005;**
- **Workers Compensation Amendment (Advertising) Regulation 2005.**

SUMMARY OF CONCLUSIONS

SECTION A: Comment on Bills

1. Crimes and Courts Legislation Amendment Bill 2005

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| 2. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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2. Freedom of Information Amendment (Open Government-Disclosure of Contracts) Bill 2005*

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| 7. 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. James Hardie Former Subsidiaries (Winding up and Administration) Bill 2005, James Hardie (Civil Liability) Bill 2005, James Hardie (Civil Penalty Compensation Release) Bill 2005

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| 1. As the Bills were enacted before the Committee had opportunity to report on them and were for the purpose of facilitating an agreement between the persons, or people representing the interest of the persons affected, the Committee has not analysed these Bills. |
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4. Law Enforcement Legislation Amendment (Public Safety) Bill 2005

Right to silence: s 87L

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| 35. The Committee notes that the right to silence when questioned is an important rule of law principle and a fundamental human right. |
| 36. However, the Committee notes that this right may appropriately be modified or abrogated when in the public interest. |
| 37. Having regard to the aims of the Bill, and the precedents with respect to vehicles, the Committee does not consider s 87L unduly trespasses on a person's fundamental right to silence. |

Right to peaceful assembly: s 87D

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| 44. | The Committee notes that the special powers under the Bill and the manner in which they may be exercised have the potential to significantly trespass on the personal right of peaceful assembly. |
| 45. | The Committee considers that such special powers must have sufficient checks to ensure that they are only exercised when required to ensure public safety. |
| 46. | The Committee notes that the authorisation of special powers can be given by the Commissioner of Police or by a Deputy or Assistant Commissioner of Police where the relevant officer has reasonable grounds for believing that there is a large-scale public disorder occurring or a threat of such a disorder occurring in the near future, and is satisfied that the exercise of those powers is reasonably necessary to prevent or control the public disorder. |
| 47. | The Committee refers to Parliament the question as to whether the terms of the Bill unduly trespass upon the right to peaceful assembly. |

Privacy: s 87J and s 87K

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| 52. | The Committee notes that simply being present in an authorised area is sufficient to subject a person and/or that person's vehicle to being stopped and searched by any police officer. |
| 53. | The Committee notes that the exercise of the powers under s 87J and s 87K is a significant trespass on the personal right to privacy. |
| 54. | The Committee refers to Parliament whether the absence of any reasonable suspicion requirement in s 87J and s 87K constitutes an undue trespass on a person's right to privacy. |

5. Police Amendment (Death and Disability) Bill 2005

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| 2. | 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 (Miscellaneous Provisions) Bill 2005

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| 2. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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SECTION B: Ministerial Correspondence — Bills Previously Considered

7. Companion Animals Amendment Bill 2005

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| 7. | The Committee thanks the Minister for his reply. |
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8. Confiscation of Proceeds of Crime Amendment Bill 2005

17. The Committee thanks the Attorney General for his reply.
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9. Consumer Credit (New South Wales) Amendment (Maximum Annual Percentage Rate) Bill 2005

8. The Committee thanks the Minister for her letter and addressing its concerns about retrospectivity.
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10. Crimes Amendment (Road Accidents) Bill 2005

20. The Committee thanks the Attorney General for his reply.
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11. State Revenue Legislation Amendment Bill 2005

4. The Committee thanks the Minister for his reply.

12. Vocational Education and Training Bill 2005

4. The Committee thanks the Minister for her reply.

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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