



Legislation Review Committee

LEGISLATION REVIEW DIGEST

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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Membership

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Functions of the Committee

The functions of the Legislation Review Committee are set out in the *Legislation Review Act 1987*:

8A Functions with respect to Bills

- 1 The functions of the Committee with respect to Bills are:
 - (a) to consider any Bill introduced into Parliament, and
 - (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
 - 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
- 2 A House of Parliament may pass a Bill whether or not the Committee has reported on the Bill, but the Committee is not precluded from making such a report because the Bill has been so passed or has become an Act.

9 Functions with respect to Regulations

- 1 The functions of the Committee with respect to regulations are:
 - (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament,
 - (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
 - i that the regulation trespasses unduly on personal rights and liberties,
 - ii that the regulation may have an adverse impact on the business community,
 - iii that the regulation may not have been within the general objects of the legislation under which it was made,
 - iv that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made,

- v that the objective of the regulation could have been achieved by alternative and more effective means,
 - vi that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
 - vii that the form or intention of the regulation calls for elucidation, or
 - viii that any of the requirements of sections 4, 5 and 6 of the *Subordinate Legislation Act 1989*, or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.
- 2 Further functions of the Committee are:
- (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
 - (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.

The functions of the Committee do not include an examination of, inquiry into or report on a matter of Government policy, except in so far as such an examination may be necessary to ascertain whether any regulations implement Government policy or the matter has been specifically referred to the Committee under subsection (2) (b) by a Minister of the Crown.

Guide to the Digest

COMMENT ON BILLS

This section contains the Legislation Review Committee's reports on Bills introduced into Parliament on which the Committee has commented against one or more of the five criteria for scrutiny set out in s 8A(1)(b) of the *Legislation Review Act 1987*.

Ministerial Correspondence – Bills previously considered

This section contains the Committee's reports on correspondence it has received relating to Bills and copies of that correspondence. The Committee may write to the Minister responsible for a Bill, or a Private Member of Parliament in relation to his or her Bill, to seek advice on any matter concerning that Bill that relates to the Committee's scrutiny criteria.

COMMENT ON REGULATIONS

The Committee considers all regulations made and normally raises any concerns with the Minister in writing. When it has received the Minister's reply, or if no reply is received after 3 months, the Committee publishes this correspondence in the Digest. The Committee may also inquire further into a regulation. If it continues to have significant concerns regarding a regulation following its consideration, it may include a report in the Digest drawing the regulation to the Parliament's "special attention". The criteria for the Committee's consideration of regulations are set out in s 9 of the *Legislation Review Act 1987*.

Regulations for the special attention of Parliament

When required, this section contains any reports on regulations subject to disallowance to which the Committee wishes to draw the special attention of Parliament.

Regulations about which the Committee is seeking further information

This table lists the Regulations about which the Committee is seeking further information from the Minister responsible for the instrument, when that request was made and when any reply was received.

Copies of Correspondence on Regulations

This part of the Digest contains copies of the correspondence between the Committee and Ministers on Regulations about which the Committee sought information. The Committee's letter to the Minister is published together with the Minister's reply.

APPENDIX 1: INDEX OF MINISTERIAL CORRESPONDENCE ON BILLS

This table lists the recipient and date on which the Committee sent correspondence to a Minister or Private Member of Parliament in relation to Bills reported on in the calendar year. The table also lists the date a reply was received and the Digests in which reports on the Bill and correspondence appear.

APPENDIX 2: INDEX OF CORRESPONDENCE ON REGULATIONS REPORTED ON

This table lists the recipient and date on which the Committee sent correspondence to a Minister in relation to Regulations reported on in the calendar year. The table also lists the date a reply was received and the Digests in which reports on the Regulation and correspondence appear.

Conclusions

PART ONE - BILLS

1. CRIMINAL PROCEDURE AMENDMENT (MANDATORY PRE-TRIAL DEFENCE DISCLOSURE) BILL 2013; EVIDENCE AMENDMENT (EVIDENCE OF SILENCE) BILL 2013

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Right to silence (Evidence Amendment (Evidence of Silence) Bill)

The Committee notes that allowing a jury to draw an unfavourable inference in relation to the failure to answer a question infringes upon an individual's right to silence.

The Committee notes the various safeguards that have been included in the Bill, including the following requirements: the use of a special caution, the presence of a legal practitioner, that the defendant is at least 18 years of age and capable of understanding the general nature and effect of a special caution, and it may only be used in circumstances if evidence of the failure or refusal to mention the fact is not the only evidence that the defendant is guilty of that serious indictable offence.

Notwithstanding those safeguards, the Committee refers to Parliament whether proposed section 89A of the *Evidence Act 1995* constitutes an undue trespass on an individual's right to silence.

Right to silence (Criminal Procedure Amendment (Mandatory Pre-Trial Defence Disclosure Bill)

The Committee again notes that providing a court or jury with the opportunity to draw unfavourable inferences as a result of an accused person failing to comply with mandatory disclosure provisions could impact on the accused person's right to silence.

The Committee notes that the Bill provides some safeguards. For example, the Bill provides that a person must not be found guilty of an offence solely on an inference drawn under the new section and that unfavourable inferences will only be able to be drawn if the prosecutor has complied with the mandatory pre-trial disclosure provisions.

Nevertheless, the Committee refers to Parliament whether proposed section 146A of the *Criminal Procedure Act 1986* constitutes an undue trespass on an individual's right to silence.

Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA

Lack of clarity

The Committee notes that the previous practice of listing the names of Acts that amended the Principal Act provides clarity. The Committee considers that the new practice of replacing the list with the words "the enactment of this Act or any Act that amends this Act" does not provide the same level of clarity. The Committee refers this to Parliament for its consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

The Committee notes that the Bills seek to introduce changes in practice in the administration of criminal law. The Committee also notes that the implementation of these changes may take some time. The Committee does not consider the commencement by proclamation to be an inappropriate delegation of legislative power in this instance.

2. ELECTION FUNDING, EXPENDITURE AND DISCLOSURES AMENDMENT
(ADMINISTRATIVE FUNDING) BILL 2013

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

3. HEALTH LEGISLATION AMENDMENT BILL 2013

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy

The Committee notes that the Health Care Complaints Commissioner giving a notice to the employer of, or person who engages, a health service practitioner may interfere with the health service practitioner's privacy and adversely affect their professional reputation. The Committee also recognises the broader public health interest test that must be met before the notice can be given.

Suspension without pay

The Committee notes the limited circumstances in which suspensions of a staffer can take place, and also notes the possible inappropriateness should a staffer be paid a salary from a public body if he or she is unable to discharge his or her employment duties due to having their registration cancelled or other limiting event. The Committee makes no further comment.

4. INDEPENDENT COMMISSION AGAINST CORRUPTION AND OTHER LEGISLATION
AMENDMENT BILL 2013

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy

The Committee notes that the provision of the kind of vetting information provided for in the Bill may trespass on the individual's right to privacy. However, the Committee notes the functions of the agencies involved and the importance of those agencies undertaking due diligence prior to the appointment of new staff, officers or consultants. The Committee also notes the safeguards included in the legislation and makes no further comment on this issue.

Spent Convictions

The Committee notes that these Schedules suspend the spent conviction scheme for the purposes of information disclosed by the NSW Police Force to certain integrity agencies, effectively undermining the purpose of the scheme. The Committee also again notes the importance of those agencies undertaking due diligence prior to the appointment of new staff, officers or consultants.

Retrospectivity

The Committee notes the retrospective application of this Bill is to make lawful and valid what currently may be considered an unlawful or invalid collection, use or disclosure of vetting information. The Committee will always be considered when the rights or liberties of individuals are varied with retrospective effect.

5. PARLIAMENTARY BUDGET OFFICER AMENDMENT BILL 2013

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

PART TWO - REGULATIONS

The Committee does not report on any Regulations in this Digest.

Part One - Bills

1. Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Bill 2013; Evidence Amendment (Evidence of Silence) Bill 2013

Date introduced	13 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Greg Smith MP
Portfolio	Attorney General and Minister for Justice

PURPOSE AND DESCRIPTION

1. The object of the **Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Bill 2013** is to amend the *Criminal Procedure Act 1986*:
 - (a) to expand the matters that must be disclosed by the defence and the prosecution before a trial for an indictable offence; and
 - (b) to enable the court (and other parties with the leave of the court) to make proper comments in a trial for an indictable offence in circumstances where the accused person fails to comply with certain pre-trial disclosure requirements; and
 - (c) to enable the court or the jury in such circumstances to then draw such unfavourable inferences as appear proper.
2. The object of the **Evidence Amendment (Evidence of Silence) Bill 2013** is to amend the *Evidence Act 1995* so that in proceedings for a serious indictable offence an unfavourable inference may be drawn from the defendant's failure or refusal to mention a fact during official questioning that the defendant could reasonably have been expected to mention and that is later relied on by the defence in the proceedings.
3. Such an inference will not be able to be drawn unless, before the questioning, a special caution was given to the defendant in the presence of a legal practitioner acting for the defendant. Such an inference will also not be able to be drawn if it is the only evidence that the defendant is guilty of the offence.
4. The Bill will not apply to a defendant who, at the time of the questioning, is under 18 years of age or incapable of understanding the general nature and effect of a special caution.

5. These two Bills are cognate with each other.

BACKGROUND

6. These two Bills form part of the Government's response to concerns that criminal trials are conducted in a fair and proper manner. In an attempt to ensure that criminal trials can run efficiently, the Government has prepared legislation requiring that an accused person should disclose any available defence at the earliest opportunity. In circumstances where they do not, juries may draw an unfavourable inference with respect to the late disclosure.
7. The reform also allows a jury to draw an unfavourable inference against an accused who remained silent during official police questioning but later produces evidence at trial which the accused could reasonably have given to police when first interviewed.

OUTLINE OF PROVISIONS

Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Bill 2013

8. Clause 1 sets out the name (also called the short title) of the proposed Act.
9. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Criminal Procedure Act 1986 No 209

10. Schedule 1 [2], [3] and [5] omit provisions of the Act that currently require the prosecution and the defence to undertake mandatory pre-trial disclosure of specified matters in proceedings for indictable offences (other than indictable offences dealt with summarily) and that enable the court hearing such proceedings to order more intensive pre-trial disclosure. Instead, provisions are included that expand the mandatory pre-trial disclosure requirements to include the matters that are currently required to be disclosed under the Act and certain additional matters some of which can currently be the subject of court ordered pre-trial disclosure under the Act. Also, the discretion of the court to require specified additional matters in the defence's pre-trial disclosure notice is retained.
11. Schedule 1 [8] enables the court (and other parties with the leave of the court) to make proper comments in a trial for an indictable offence in circumstances where the accused person fails to comply with the mandatory pre-trial disclosure requirements. The court or the jury may in such circumstances draw such unfavourable inferences as appear proper.
12. Schedule 1 [9] enables the accused person (with the leave of the court) to amend the defence pre-trial disclosure notice if the prosecution provides additional relevant material to the defence after the notice is given.
13. Schedule 1 [10] requires the court to be of the opinion that it is in the interests of the administration of justice to do so when deciding whether to waive any of the requirements for pre-trial disclosure.

CRIMINAL PROCEDURE AMENDMENT (MANDATORY PRE-TRIAL DEFENCE DISCLOSURE) BILL 2013; EVIDENCE AMENDMENT (EVIDENCE OF SILENCE) BILL 2013

14. Schedule 1 [11] requires the court when deciding whether to waive any of the requirements for pre-trial disclosure to take into account whether the accused person is represented by an Australian legal practitioner. Also, the court must give reasons if it makes an order waiving any pre-trial disclosure requirement.
15. Schedule 1 [13] enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.
16. Schedule 1 [14] contains specific transitional provisions consequent on the enactment of the proposed Act and includes a requirement for the review of the operation of the amendments made by the proposed Act after a period of 2 years.
17. Schedule 1 [1], [4], [6], [7] and [12] make consequential amendments.

Evidence Amendment (Evidence of Silence) Bill 2013

18. Clause 1 sets out the name (also called the short title) of the proposed Act.
19. Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Schedule 1 Amendment of Evidence Act 1995 No 25

20. Schedule 1 [2] inserts proposed section 89A into the *Evidence Act 1995* (the *Principal Act*) to achieve the object described in the Overview above.
21. Schedule 1 [1] makes a consequential amendment to section 89 of the Principal Act.
22. Schedule 1 [3] enables the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act.
23. Schedule 1 [4] inserts savings and transitional provisions into Schedule 2 to the Principal Act.

ISSUES CONSIDERED BY COMMITTEE

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Right to silence (Evidence Amendment (Evidence of Silence) Bill)

24. Schedule 1[2] of the Evidence Amendment (Evidence of Silence) Bill inserts a new section 89A into the *Evidence Act 1995*. This provision provides that an unfavourable inference may be drawn if, during official questioning in relation to a serious indictable offence, the defendant failed or refused to mention a fact that the defendant could reasonably have been expected to mention in the circumstances and that is relied on in his or her defence in that proceeding.

The Committee notes that allowing a jury to draw an unfavourable inference in relation to the failure to answer a question infringes upon an individual's right to silence.

The Committee notes the various safeguards that have been included in the Bill, including the following requirements: the use of a special caution, the presence of a legal practitioner, that the defendant is at least 18 years of age and capable of understanding the general nature and effect of a special caution, and

it may only be used in circumstances if evidence of the failure or refusal to mention the fact is not the only evidence that the defendant is guilty of that serious indictable offence.

Notwithstanding those safeguards, the Committee refers to Parliament whether proposed section 89A of the *Evidence Act 1995* constitutes an undue trespass on an individual's right to silence.

Right to silence (Criminal Procedure Amendment (Mandatory Pre-Trial Defence Disclosure Bill))

25. Under the current provisions of the *Criminal Procedure Act 1986*, the prosecution and defence are required to undertake mandatory pre-trial disclosure of certain matters in proceedings for indictable offences. However, under the current provisions, there are a number of other matters that can be the subject of pre-trial disclosure by order of the court. However, the Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Bill 2013 seeks to expand the matters that are subject to that mandatory pre-trial disclosure.
26. Schedule 1[8] of the Bill inserts a new section 146A into the *Criminal Procedure Act 1986*. Under that section, if an accused person fails to comply with the new mandatory pre-trial disclosure provisions, or the accused is required to give notice of alibi and fails to do so, then the court has two options before it.
27. First, the court, or any party with the leave of the court, may make such comment at the trial as appears proper and second, the court or jury may again draw such unfavourable inferences as appear proper.

The Committee again notes that providing a court or jury with the opportunity to draw unfavourable inferences as a result of an accused person failing to comply with mandatory disclosure provisions could impact on the accused person's right to silence.

The Committee notes that the Bill provides some safeguards. For example, the Bill provides that a person must not be found guilty of an offence solely on an inference drawn under the new section and that unfavourable inferences will only be able to be drawn if the prosecutor has complied with the mandatory pre-trial disclosure provisions.

Nevertheless, the Committee refers to Parliament whether proposed section 146A of the *Criminal Procedure Act 1986* constitutes an undue trespass on an individual's right to silence.

Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA

Lack of clarity

28. Schedule 1[3] of the Evidence Amendment (Evidence of Silence) Bill omits the current clause 1(1) of Schedule 2 of the Bill and replaces it with text providing that regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act. The replaced text lists the names of Acts that amended the Principal Act.

The Committee notes that the previous practice of listing the names of Acts that amended the Principal Act provides clarity. The Committee considers that the new practice of replacing the list with the words “the enactment of this Act or any Act that amends this Act” does not provide the same level of clarity. The Committee refers this to Parliament for its consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

29. Both Bills are to commence on a day or days to be appointed by proclamation.

The Committee notes that the Bills seek to introduce changes in practice in the administration of criminal law. The Committee also notes that the implementation of these changes may take some time. The Committee does not consider the commencement by proclamation to be an inappropriate delegation of legislative power in this instance.

2. Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Bill 2013

Date introduced	14 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Barry O'Farrell
Portfolio	Premier

PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Election Funding, Expenditure and Disclosures Act 1981* (the Act) to increase the amounts for which registered parties with elected members of State Parliament, and elected members of State Parliament who are not members of registered parties, are eligible to be paid by the Election Funding Authority (the Authority) for administrative expenses incurred.
2. The Bill also enables quarterly payments of such amounts, and requires payments from the Administration Fund or the Policy Development Fund for expenditure incurred to be made by the Authority within six weeks after a claim is made.

BACKGROUND

3. The Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Bill 2013 implements the recommendations made by the Joint Standing Committee on Electoral Matters late last year following its inquiry into administrative funding for minor parties in New South Wales. The Inquiry itself was prompted by concerns that changes to the *Election Funding, Expenditure and Disclosures Act 1981* in 2010 had placed a higher administrative burden, and as such a disproportionate financial impact, on smaller parties.
4. One of the changes that emerged from the 2010 reforms was the establishment of the Administration Fund, designed to help offset the cost of complying with new rules, and to make up for the loss of revenue available to parties and independent members to meet their administrative expenses as a result of caps on political donations. This Bill substantially affects payments made out of that fund, as well as the time in which a payment must be made following consultations with the Election Funding Authority.

OUTLINE OF PROVISIONS

5. Clause 1 sets out the name (also called the short title) of the proposed Act.
6. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.
7. Schedule 1 [1] increases the amount of annual payment for which a registered party who has members who are elected members of State Parliament is eligible for

administrative expenses incurred. The amount is determined on a sliding scale according to the number of elected members who are members of the party. For expenditure incurred in the year 2012, the scale is \$200,000 for parties with one elected member, \$350,000 for parties with 2 elected members, \$450,000 for parties with 3 elected members and \$450,000 for parties with more than 3 elected members plus an additional \$83,000 for each member in excess of 3 (but capped at 22 members in excess of 3). These amounts are to be adjusted for inflation for each year after 2012.

8. Schedule 1 [2] increases the amount of annual payment for which an elected member of State Parliament who is not a member of a registered party is eligible for administrative expenses incurred. The amount for the year 2012 is \$200,000 and is adjusted each subsequent year for inflation.
9. Schedule 1 [3] provides that parties and elected members eligible for annual payments for administrative expenses incurred in a calendar year may receive quarterly payments in respect of the first three quarters of the year. The quarterly payments must be in respect of actual administrative expenses already incurred and are capped at a percentage of the applicable annual amount. Any such payment to a party or elected member is to be deducted from the annual amount to which the party or elected member is entitled. Quarterly payments in excess of that annual amount are to be repaid to the Authority. The Authority may demand repayment of quarterly payments from a party or elected member if the party or elected member has become ineligible for an annual payment.
10. Schedule 1 [4]–[6] make consequential amendments to the provisions relating to the making of claims.
11. Schedule 1 [7] requires the Authority to make a payment from the Administration Fund for administrative expenditure incurred, or from the Policy Development Fund for policy development expenditure incurred, within 6 weeks after receiving a properly made claim with supporting documentation and information. The Authority is also empowered to deduct from any payment to be made to a party or elected member under Part 6A of the Act any amount that the Authority may recover under that Part from the party or elected member as a debt.
12. Schedule 1 [8] makes a consequential amendment to the provisions relating to the adjustment of amounts for inflation.
13. Schedule 1 [9]–[11] contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.
14. Schedule 2 makes consequential amendments to the Election Funding, Expenditure and Disclosures (Adjustable Amounts) Notice.

ISSUES CONSIDERED BY COMMITTEE

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

3. Health Legislation Amendment Bill 2013

Date introduced	13 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Jillian Skinner MP
Portfolio	Health

PURPOSE AND DESCRIPTION

1. The object of this Bill is to make miscellaneous amendments to various Acts relating to health and associated matters.
2. In particular, the Bill proposes to amend the *Health Care Complaints Act 1993* to give the Commissioner the power to initiate an investigation on his or her own accord without first requiring an external complainant to trigger the investigation. The amendments to this Act also clarify that a complaint can be made against a health service practitioner if the health service affects, or is likely to affect, the clinical management or care of an individual. Currently, a direct nexus has to exist between a health consumer and health service practitioner before a complaint can be lodged.
3. Further amendments to that Act include providing for a set of broad principles to govern the work of the Health Care Complaints Commission (HCCC), allowing the HCCC to give written notice of the making of a complaint to the employer of health practitioner, and authorising the Director of Proceedings to refer a matter back to the HCCC if the Director requires further information before deciding whether to prosecute a matter.
4. The Bill also makes various miscellaneous amendments which will allow for staff of the New South Wales Health Service to be suspended from duty without pay in limited circumstances, allow the Chair of the Medical Services Committee to serve for an extended period of time, and facilitate changes to the *Mental Health Act* and the *Mental Health (Forensic Provisions) Act* which clarify a number of existing provisions concerning the scheduling and detention of forensic patients who are on leave or conditional release.

BACKGROUND

5. This Bill forms part of the periodic review and update of health-related legislation.
6. The amendments to the *Health Care Complaints Act 1993* were prompted by the 2012 Supreme Court decision of *Australian Vaccination Network Inc v Health Care Complaints Commission* in which it was found that the HCCC can investigate only if the complaint shows that the health service in question affects the clinical management or care of an individual client, rather than the potential or likelihood that a health service provider could adversely affect public health.
7. The other amendments to the *Health Care Complaints Act 1993* generally follow the recommendations of the 2010 joint parliamentary committee's report '*Operation of the Health Care Complaints Act 1993*'.

OUTLINE OF PROVISIONS

8. Schedule 1 [1] inserts provisions into the *Health Administration Act 1982* to facilitate certain dispositions of land by the Health Administration Corporation (being dispositions, dedications or uses that are contrary to a provision of, or a trust arising under, the Crown grant of that land or that may make the land liable to be forfeited to the Crown). The provisions enable land to be disposed by the Health Administration Corporation in the same manner as dispositions of land by local health districts under section 34 of the *Health Services Act 1997*.
9. Schedule 1 [2] makes it clear that a person may be appointed to a fourth consecutive term as a member of the Medical Services Committee established under the *Health Administration Act 1982* if the person was appointed as Chairperson of that Committee during the person's third consecutive term. In all other cases a person may not be appointed as a member for more than 3 consecutive terms.
10. Schedule 2 [1] sets out the principles that are to govern the exercise of functions by the Health Care Complaints Commission (*the Commission*) and other government agencies in connection with health care complaints under the *Health Care Complaints Act 1993* (*the HCC Act*).
11. Schedule 2 [2] makes it clear that a complaint under the HCC Act may be made concerning a health service that is likely to affect the clinical management or care of an individual client in addition to health services that do affect such management or care. Schedule 2 [10] makes a consequential amendment.
12. Schedule 2 [3] provides that the Health Care Complaints Commissioner may make a complaint under the HCC Act but only if it appears to the Commissioner that the matter that is the subject of the complaint:
 - (a) raises a significant issue of public health or safety, or
 - (b) raises a significant question regarding a health service that affects, or is likely to affect, the clinical management or care of an individual client, or
 - (c) if substantiated, would:
 - (i) provide grounds for disciplinary action against a health practitioner, or
 - (ii) be found to involve gross negligence on the part of a health practitioner, or
 - (iii) result in the health practitioner being found guilty of an offence under Division 1 or 3 of Part 7 of the *Public Health Act 2010*.
13. Schedule 2 [4] provides that the Commission must give written notice of the making of a complaint, the nature of the complaint and the identity of the complainant to a person who currently employs or engages the health practitioner concerned as a health practitioner if the Commission considers on reasonable grounds that the giving of the notice is necessary to assess the matter effectively or to protect the health or safety of the public or a member of the public. The Commission is not required to give the notice if it appears to the Commission, on reasonable grounds, that the giving of the notice will place the complainant or another person at risk of intimidation or harassment or unreasonably prejudice the employment or engagement of the health practitioner.
14. Schedule 2 [5] and [8] update certain references.

15. Schedule 2 [6] makes it clear that following the assessment of a complaint the Commission is to give notice of the action taken or decision made to all the parties to the complaint and not only to the complainant.
16. Schedule 2 [7] amends a note.
17. Schedule 2 [9] provides that the Commission is to notify the parties to a complaint against a health organisation, and may notify other persons, of the action taken and the reasons for taking that action in addition to notice of the results of the investigation.
18. Schedule 2 [11] inserts provisions into the HCC Act to enable the Director of Proceedings to refer a complaint back to the Commission for further investigation if the Director:
 - (a) is unable to determine whether the complaint should be prosecuted before a disciplinary body, or
 - (b) is of the opinion that further evidence is required to enable the Director to prosecute the complaint before the disciplinary body.
19. Schedule 3 makes amendments to the Health Practitioner Regulation National Law as set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland and as applied as a law of New South Wales by the *Health Practitioner Regulation (Adoption of National Law) Act 2009*.
20. Schedule 3 [1] provides that the Commission is not required to investigate a complaint referred to it by a health profession council, or cause it to be investigated, if the matter that is the subject of the complaint is being, or has been, investigated as, or as part of, another complaint to the Commission.
21. Schedule 3 [2]–[4] make amendments by way of statute law revision.
22. Schedule 4 amends the *Health Services Act 1997* to enable the Director-General of the Ministry of Health to suspend members of the NSW Health Service from duty without pay in certain circumstances, including certain cases of misconduct and being charged with certain serious criminal offences. The proposed power is generally similar to the power to suspend members of the Government Service contained in section 49 of the *Public Sector Employment and Management Act 2002*.
23. Schedule 5 [1] makes it clear that a correctional patient under the *Mental Health (Forensic Provisions) Act 1990* who is re-classified under that Act as an involuntary patient is an involuntary patient for the purposes of the *Mental Health Act 2007*.
24. Schedule 5 [2] provides that an authorised medical officer of a mental health facility must, as soon as is reasonably practicable, notify the Mental Health Review Tribunal if the officer becomes aware that a person detained in the mental health facility under the *Mental Health Act 2007* is a forensic patient.
25. Schedule 5 [3] provides that an authorised medical officer of a mental health facility must, as soon as is reasonably practicable, notify the Mental Health Review Tribunal of the discharge of a person detained in the mental health facility whom the officer knows is a forensic patient.

26. Schedule 6 [1] makes an amendment to clarify the circumstances in which a person ceases to be classified as a forensic patient under the *Mental Health (Forensic Provisions) Act 1990 (the MH (FP) Act)*.
27. Schedule 6 [2] provides that a community treatment order may be made in respect of a forensic patient who is to be released unconditionally in accordance with an order of the Mental Health Review Tribunal. On and from the release of the person, the community treatment order is taken to have been made under the *Mental Health Act 2007*.
28. Schedule 6 [3] makes it clear that an apprehension order under section 68 (Breach of orders for release) of the MH (FP) Act authorises the detention of the person concerned at the mental health facility, correctional centre or other place specified in the order.
29. Schedule 6 [4] makes it clear that the *Mental Health Act 2007* applies to a person who has been granted conditional release or leave of absence under Part 5 of the MH (FP) Act.
30. Schedule 6 [5] provides that if a party has appealed against a determination of the Mental Health Review Tribunal to the Supreme Court or the Court of Appeal on any question (not merely on a question of law), the Tribunal or the Court concerned may suspend, until the appeal is determined, the operation of any order or determination made in respect of the proceedings.

ISSUES CONSIDERED BY COMMITTEE

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy

31. Clause 4 of the Bill provides that the Health Care Complaints Commissioner must give written notice of the making of a complaint, the nature of the complaint and identity of the complainant to a person who currently employs or engages the health practitioner concerned as a health practitioner if the Commissioner considers on reasonable grounds that the giving of the notice is necessary to assess the matter effectively, or protect the health or safety of the public or a member of the public.
32. Although an exception to this requirement is when notice would unreasonably prejudice the employment or engagement of the health practitioner, the Committee notes the likely difficulty for the Commissioner to ascertain whether such an exception could be met. The Committee also notes that notice may still constitute an interference with the health practitioner's privacy, and recognises possible consequences to his or her professional reputation.
33. Despite these concerns, the Committee also recognises the broader public health interest test that must be met before the HCCC can give notice to the employer of, or person who engages the services of, the health practitioner.

The Committee notes that the Health Care Complaints Commissioner giving a notice to the employer of, or person who engages, a health service practitioner may interfere with the health service practitioner's privacy and adversely affect their professional reputation. The Committee also recognises the broader public health interest test that must be met before the notice can be given.

Suspension without pay

34. Schedule 4 provides that the Director-General of the Department of Health can suspend members of staff from duty pending a decision in relation to certain misconduct or serious criminal charges, and that any salary payable to a person while suspended is to be withheld in certain circumstances.
35. These circumstances usually relate to whether the professional registration of the staffer has been cancelled or suspended, whether prohibition orders have been made against the staffer, where conditions are imposed on employment that are inconsistent with the inherent requirements of the terms of employment, or a conviction has been recorded of the offence concerned.
36. The Committee notes that suspension of a staffer without pay would likely seriously affect his or her livelihood. This would be particularly problematic if the misconduct or serious criminal charges laid against the staffer were later withdrawn, or if the staffer was otherwise exonerated. Although the staffer is to be paid the salary withheld in these circumstances, the Committee still notes the financial and emotional stresses likely placed on the individual during which his or her salary is being withheld.
37. However, the Committee also recognises the possible inappropriateness that a member of staff who cannot discharge his or her duties due to misconduct or serious criminal charges, be continued to be paid a salary from a public body.

The Committee notes the limited circumstances in which suspensions of a staffer can take place, and also notes the possible inappropriateness should a staffer be paid a salary from a public body if he or she is unable to discharge his or her employment duties due to having their registration cancelled or other limiting event. The Committee makes no further comment.

4. Independent Commission Against Corruption and Other Legislation Amendment Bill 2013

Date introduced	14 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Barry O'Farrell MP
Portfolio	Premier

PURPOSE AND DESCRIPTION

1. The objects of this Bill are as follows:
 - (a) to enable certain information, including criminal intelligence, to be requested, disclosed and used for vetting applicants for positions with the Independent Commission Against Corruption (the *ICAC*) and the Inspector of that Commission, the NSW Crime Commission and the Inspector of that Commission, the NSW Police Force and the Police Integrity Commission (the *PIC*) and the Inspector of that Commission,
 - (b) to enable former Judges of the District Court of New South Wales to be appointed as Chairperson of the New South Wales Crime Commission Management Committee,
 - (c) to enable a public authority to disclose information to the Ombudsman without having to comply with certain information protection principles,
 - (d) to exempt appropriately trained officers of the PIC from the requirement to have licences or permits for certain firearms and weapons while performing PIC duties,
 - (e) to enable records relating to young offenders to be disclosed to, and kept by, the Ombudsman,
 - (f) to make other amendments, and provide for savings and transitional matters, of a consequential nature.

BACKGROUND

2. In recent times, the ICAC, the PIC, the Ombudsman and the Crime Commission have raised concerns in relation the authorisation of certain information, including criminal intelligence, to be requested, disclosed and used for vetting applicants for positions within those agencies. These amendments address those concerns.
3. The amendments also implement recommendations in relation PIC officers and the use of firearms and weapons, following recommendations from the Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission.

OUTLINE OF PROVISIONS

4. Clause 1 sets out the name (also called the short title) of the proposed Act.
5. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35

Disclosure and use of information to vet staff

6. Schedule 1 [1] authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as officers of the Inspector of the ICAC or the ICAC. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the ICAC, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.
7. The amendment also requires records to be kept of occasions when vetting information about an associate or relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on at the end of that period by a person appointed by the Attorney General. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.
8. Schedule 1 [2] applies the secrecy provisions that are applicable to ICAC staff to the person conducting the review relating to the use of vetting information and records.
9. Schedule 1 [4] validates the previous collection, use and disclosure of vetting information.

Savings and transitional provisions

10. Schedule 1 [3] enables regulations containing savings or transitional provisions to be made consequent on the enactment of Acts that amend the *Independent Commission Against Corruption Act 1988*.

Schedule 2 Amendment of Crime Commission Act 2012 No 66

Disclosure and use of information to vet staff

11. Schedule 2 [1] authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as officers of the Inspector of the NSW Crime Commission or the NSW Crime Commission. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the Commission, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime

12. Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.
13. The amendment also requires records to be kept by the Inspector or the Commission of occasions when vetting information about an associate or a relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of the period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.
14. Schedule 2 [2] applies the secrecy provisions that are applicable to staff of the NSW Crime Commission to the person conducting the review relating to the use of vetting information and records.
15. Schedule 2 [4] validates the previous collection, use and disclosure of vetting information.

New South Wales Crime Commission Management Committee appointments

16. Schedule 2 [3] enables a former Judge of the District Court of New South Wales to be appointed to the position of Chairperson of the New South Wales Crime Commission Management Committee.
17. Schedule 2 [4] validates, from the time of appointment, the appointment to the Management Committee of a person who would have been validly appointed if appointed after the commencement of Schedule 2 [3].

Schedule 3 Amendment of Ombudsman Act 1974 No 68

18. Schedule 3 enables information to be provided to the Ombudsman when preliminary inquiries are made by the Ombudsman, despite restrictions under the *Privacy and Personal Information Protection Act 1998*. The amendment reflects the current exemption given to the Ombudsman by the Privacy Commissioner.

Schedule 4 Amendment of Police Act 1990 No 47

19. Schedule 4 [1] authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as members of the NSW Police Force or as consultants to the NSW Police Force.
20. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Commissioner of Police, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.
21. The amendment also requires records to be kept by the Commissioner of occasions when vetting information about an associate or a relative is considered, including a

record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of that period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures. The person conducting the review will be subject to secrecy provisions.

22. Schedule 4 [2] validates the previous collection, use and disclosure of vetting information.

Schedule 5 Amendment of Police Integrity Commission Act 1996 No 28

Exemption from weapons requirements

23. Schedule 5 [2] extends to appropriately trained officers of the PIC the current exemption from requirements to hold licences or permits for semi-automatic pistols and other prohibited weapons that is given to officers who are former or seconded police officers.
24. Schedule 5 [4] provides that an appropriately trained officer is an officer certified by the Commissioner of the PIC to be such an officer.
25. Schedule 5 [3] adds anti-personnel spray, batons and magazines for semi-automatic pistols to the prohibited weapons that may be used or possessed by officers of the Police Integrity Commission without a permit.

Disclosure and use of information to vet staff

26. Schedule 5 [5] authorises the use of, requests for and disclosure of, vetting information for the purposes of determining whether to appoint or engage applicants as officers of the Inspector of the PIC or the PIC. *Vetting information* is information (about an applicant or an associate or relative of an applicant) that is held by or obtained by the Inspector or the PIC, including criminal intelligence reports or other criminal information, information from the Births, Deaths and Marriages Register, Roads and Maritime Services information and information from law enforcement agencies and corruption agencies. Other information may be prescribed as vetting information. Disclosures may be made for vetting purposes despite any other Act or law.
27. The amendment also requires records to be kept by the Inspector or the PIC of occasions when vetting information about an associate or a relative is considered, including a record of whether information contributed to a decision not to appoint or engage a person, for the period of 2 years after the commencement of the amendment. The records are to be reviewed and reported on by a person appointed by the Attorney General at the end of that period. Such a report may contain recommendations relating to the collection, use and disclosure of vetting information and related practices and procedures.
28. Schedule 5 [1] applies the secrecy provisions that are applicable to PIC staff to the person conducting the review relating to the use of vetting information and records.
29. Schedule 5 [6] validates the previous collection, use and disclosure of vetting information.

Schedule 6 Amendment of Young Offenders Act 1997 No 54

30. Schedule 6 [3] enables information relating to matters under the *Young Offenders Act 1997* (including information such as information about cautions, warnings and conferences) to be divulged to the Ombudsman for the purposes of the exercise of the Ombudsman's functions. Schedule 6 [4] makes a consequential amendment.
31. Schedule 6 [1] removes the requirement for a record of a warning to be expunged, if the record is divulged to and held by the Ombudsman. Schedule 6 [2] makes a consequential amendment.

ISSUES CONSIDERED BY COMMITTEE

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy

32. Schedules 1[1], 2[1], 4[1] and 5[5] provide measures for the vetting of new officers, staff or consultants by the ICAC, Crime Commission, NSW Police Force, and PIC. Vetting information is to include any criminal intelligence report, information held in the Births, Deaths and Marriages Register, information held by Corrective Services, information held by CrimTrac, and other listed agencies.
33. These Schedules also provide that for the purposes of the collection, disclosure or use of vetting information, the information may be collected, disclosed or used despite any other Act or law. This, in effect, ousts the reach of the *Privacy and Personal Information Protection Act 1998* which sets the parameters of – and regulates – the collection, use and disclosure of personal information. The absence of such statutory coverage compounds the privacy implications of this Bill.

The Committee notes that the provision of the kind of vetting information provided for in the Bill may trespass on the individual's right to privacy. However, the Committee notes the functions of the agencies involved and the importance of those agencies undertaking due diligence prior to the appointment of new staff, officers or consultants. The Committee also notes the safeguards included in the legislation and makes no further comment on this issue.

Spent Convictions

34. These Schedules also provide for the Commissioner of Police (or any member of the NSW Police Force acting under his or her authority) to disclose information about the criminal history of a person to the heads of the integrity bodies covered by this Act, including information relating to spent convictions, despite anything to the contrary in the *Criminal Records Act 1991*.
35. The Committee notes that spent convictions are generally reserved for relatively minor offences, with short sentences, and for offences that occurred some time ago. Further, the purpose of spent convictions is to ensure individuals with certain criminal convictions are not prejudiced in their employment prospects many years after the offence occurred.
36. However, the Committee again notes the importance of these integrity agencies undertaking due diligence prior to the appointment of new staff, officers or consultants.

The Committee notes that these Schedules suspend the spent conviction scheme for the purposes of information disclosed by the NSW Police Force to certain integrity agencies, effectively undermining the purpose of the scheme. The Committee also again notes the importance of those agencies undertaking due diligence prior to the appointment of new staff, officers or consultants.

Retrospectivity

37. Further amendments contained in the Bill provide that the collection, use or disclosure of vetting information that occurred before commencement of this Bill is taken to have been validly done if the collection, use or disclosure would have been valid if done on or after that commencement.
38. The Committee notes that the retrospective application of this Bill is to make lawful and valid what currently may be considered unlawful or invalid. This may further compromise the privacy of an individual who would not have been aware that their vetting information could be collected, used or disclosed at the time it took place.

The Committee notes the retrospective application of this Bill is to make lawful and valid what currently may be considered an unlawful or invalid collection, use or disclosure of vetting information. The Committee will always be concerned when the rights or liberties of individuals are varied with retrospective effect.

5. Parliamentary Budget Officer Amendment Bill 2013

Date introduced	14 March 2013
House introduced	Legislative Assembly
Minister responsible	The Hon. Mike Baird MP
Portfolio	Treasurer

PURPOSE AND DESCRIPTION

1. This Bill amends the Parliamentary Budget Officer Act 2010 (the Principal Act) to give effect to the Government's response to an inquiry into the Parliamentary Budget Office by the Joint Select Committee on the Parliamentary Budget Office (December 2011) (the Parliamentary Inquiry).
2. In particular, the Bill:
 - (a) limits the function of the Parliamentary Budget Officer to the preparation of costings of general election promises of the Premier and Leader of the Opposition, and removes functions of costing the election promises of other parties or members and of providing technical analysis, advice and briefings to members on budget and economic matters, and
 - (b) limits the appointment of the Parliamentary Budget Officer to a period before and after a State general election during which election costings and reports are to be made, and
 - (c) requires the Premier and the Leader of the Opposition to request the Parliamentary Budget Officer to prepare election policy costings for all general election promises that are likely to impact on the current and relevant forward budget estimates, and
 - (d) authorises the Parliamentary Budget Officer to publicly release more than one budget impact statement prior to the State general election, and
 - (e) clarifies that a budget impact statement of all the costed policies of the Premier and Leader of the Opposition must show the budgetary impact of all costed policies on a specified core set of financial indicators, and
 - (f) makes a number of other amendments in relation to the reporting and parliamentary review arrangements of the Parliamentary Budget Officer.

BACKGROUND

3. In June 2011, the Joint Select Parliamentary Budget Office Committee commenced an Inquiry to consider the purpose of the Office and whether the terms of the Act were appropriate, as well as the role of the Office, including its function and powers, structure, staffing and resources and accountability and oversight mechanisms.

4. The Committee published its Final Report on 2 December 2011, which included 9 recommendations. This Bill addresses those recommendations.

OUTLINE OF PROVISIONS

5. Clause 1 sets out the name (also called the short title) of the proposed Act.
6. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Parliamentary Budget Officer Act 2010 No 83

Amendment relating to recommendation 1 of Parliamentary Inquiry

7. Schedule 1 [14] gives effect to the recommendation that parliamentary leaders be required to submit all of their publicly announced election promises (that are likely to impact on the budget estimates) for costing by the Parliamentary Budget Officer. A parliamentary leader will be required to advise the Parliamentary Budget Officer in writing on the fifth last day before the election that all those promises have been submitted.

Amendments relating to recommendation 2 of Parliamentary Inquiry

8. Schedule 1 [4] and [5] give effect to the recommendation that the Parliamentary Budget Officer be appointed before each State general election (commencing 1 September before a general election due in March of the following year). The appointment will end within 3 months after the general election. Currently the Parliamentary Budget Officer is appointed for a period of between 4 and 9 years.
9. Schedule 1 [6] and [7] make consequential amendments.

Amendments relating to recommendation 3 of Parliamentary Inquiry

10. Schedule 1 [8] gives effect to the recommendation that the sole function of the Parliamentary Budget Officer is to be the preparation of election policy costings. The proposed Act limits costings to the election policies of the Premier and the Leader of the Opposition and removes the following functions:
 - (a) the preparation of costings of proposed policies of any member of Parliament at the request of the member at any time during the year,
 - (b) providing to members of Parliament analysis, advice and briefings of a technical nature on financial, fiscal and economic matters (including in relation to costings of proposals included in the State budget).
11. Schedule 1 [1], [3], [11], [12] and [13] make consequential amendments.

Amendment relating to recommendation 4 of Parliamentary Inquiry

12. Schedule 1 [9] gives effect to the recommendation that the operational plan of the Parliamentary Budget Officer be prepared as soon as practicable after the appointment of the Parliamentary Budget Officer before a State general election (instead of after each State general election).

Amendments relating to recommendations 5 and 6 of Parliamentary Inquiry

13. Schedule 1 [10] gives effect to the recommendation that the Parliamentary Budget Officer furnish a report to the relevant parliamentary committee on his or her activities after the general election instead of furnishing an annual report. Schedule 1 [10] also designates the Public Accounts Committee of the Legislative Assembly as the parliamentary committee that is to monitor and report on the activities of the Parliamentary Budget Officer. Currently, the Parliamentary Budget Officer reports to a committee of the Legislative Assembly and a separate committee of the Legislative Council.

Amendment relating to recommendation 7 of Parliamentary Inquiry

14. Schedule 1 [20] gives effect to the recommendation that the Parliamentary Budget Officer be permitted to release more than one budget impact statement during the pre-election period. Currently, the Parliamentary Budget Officer may only publicly release a single budget impact statement 5 days before the State general election. The Parliamentary Budget Officer is authorised by the amendment to publicly release revisions of a final budget impact statement following further costings of policies under the Principal Act after the public release of the statement.

Amendments relating to recommendation 8 of Parliamentary Inquiry

15. Schedule 1 [17] and [18] give effect to the recommendation that the content of budget impact statements be clarified. The amendment requires the Parliamentary Budget Officer to show the budgetary impact of all costed policies on the following financial indicators:
 - (a) general government sector net operating result,
 - (b) general government sector capital expenditure,
 - (c) general government sector net lending/borrowing,
 - (d) general government sector net financial liabilities,
 - (e) total state sector net financial liabilities.

Other amendments

16. Schedule 1 [2] provides that State general elections for which election policy costings are required do not include any general election held following a no-confidence motion and dissolution of the Legislative Assembly before the end of the 4-year term of Parliament.
17. Schedule 1 [15] and [16] provide that election policy costings cannot be requested until the operational plan of the Parliamentary Budget Officer has been approved by the Presiding Officers and tabled in Parliament.
18. Schedule 1 [19] removes some spent editorial notes.
19. Schedule 1 [21] authorises the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act or of any other Act that amends the Principal Act.

ISSUES CONSIDERED BY COMMITTEE

The Committee makes no comment on the Bill in respect of issues set out in s8A of the Legislation Review Act 1987.

Part Two - Regulations

The Committee does not report on any Regulations in this Digest.

Appendix One – Index of Ministerial Correspondence on Bills

The Committee does not report on any Ministerial Correspondence on Bills in this Digest.

Appendix Two – Index of Correspondence on Regulations on which the Committee has reported

1. In Digest 9/55, the Committee reported on the Work Health and Safety (Savings and Transitional) Regulation 2011, and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 17 April 2012 which addresses to the Committee's satisfaction the issues raised.
2. In Digest 12/55, the Committee reported on the Water Management (General) Amendment (Water Sharing Plans) Regulation (No 2) 2011 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 29 May 2012 which addresses to the Committee's satisfaction the issues raised.
3. In Digest 16/55, the Committee reported on the Home Building Amendment (Threshold for Home Warrant Insurance) Regulation 2012 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister dated 29 May 2012 which addresses to the Committee's satisfaction the issues raised.
4. In Digest 12/55, the Committee reported on the Local Government (General) Amendment (Election Procedures) Regulation 2012 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister received 21 June 2012 which addresses to the Committee's satisfaction the issues raised.
5. In Digest 15/55, the Committee reported on the Police Amendment (Death and Disability) Regulation 2011 and subsequently wrote to the Minister. The Committee is in receipt of a response from the Minister received 9 July 2012 which addresses to the Committee's satisfaction the issues raised.
6. On 8 May 2012 the Committee wrote to the Attorney General in relation to James Hardie Former Subsidiaries (Winding up and Administration) Amendment (Statutory Recovery Claims) Regulation 2012. The Committee was in receipt of a response from the Attorney General dated 10 August 2012 which addressed to the Committee's satisfaction the issues raised. Further information in relation to this can be found in Digest 23/55.