



## 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”.

# Contents

Membership	ii
Guide to the Digest	iii
Conclusions	iv
PART ONE – BILLS	7
1. CIVIL LIABILITY (THIRD PARTY CLAIMS AGAINST INSURERS) BILL 2017	7
2. CROWN LAND LEGISLATION AMENDMENT BILL 2017	9
3. STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2017	13
4. TRANSPORT ADMINISTRATION AMENDMENT (CLOSURE OF RAILWAY LINE BETWEEN ROSEWOOD AND TUMBARUMBA) BILL 2017	15
APPENDIX ONE – FUNCTIONS OF THE COMMITTEE	17

# Membership

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# 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*.

## 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.

# Conclusions

## PART ONE – BILLS

### 1. CIVIL LIABILITY (THIRD PARTY CLAIMS AGAINST INSURERS) BILL 2017

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

##### *Restricting judicial discretion*

The Committee notes the removal of judicial discretion may impact on an individual's right to sue an insurer under the principal Act. However given the policy intentions and the findings of the NSW Law Reform Commission's report into Third party claims on insurance money, the restriction is reasonable in the circumstances and the Committee makes no further comment.

### 2. CROWN LAND LEGISLATION AMENDMENT BILL 2017

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

##### *Revocation of appointment without notice or compensation*

The Committee notes that the power to revoke an appointment at any time, for any or no reason with no right to compensation may constitute a trespass on personal rights and liberties. However, given that a Crown land manager is unlikely to be a natural person the Committee makes no further comment on this issue.

The Committee notes that the power to revoke the appointment of the Chair or Deputy Chair of statutory land manager at any time, for any or no reason with no right to compensation may constitute a trespass on personal rights and liberties.

##### *Public enjoyment of Crown land*

The Committee notes that the effect of amending subsection 5.3(5) of the principal Act as proposed is to provide the Minister with greater scope for the sale of Crown land which has not been dedicated or reserved for a 'public purpose'.

##### *Use of public roads*

The Committee notes that the closing of local council public roads by local councils is subject to a number of conditions, including a notification process, a call for public submissions and formal objections, and an appeal right to the Land and Environment Court. Whilst the Committee notes the real impact that the closure of a public road may have on some individuals, given the thresholds included in the Bill the Committee does not consider the trespass to be unreasonable in these circumstances.

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

##### *Henry VIII clause*

The Committee notes the administrative convenience of enabling the regulations to modify the provisions of the Bill in relation to land that is purchased or leased or over which an easement is acquired. The Committee also notes that such land may not necessarily be considered Crown land, and therefore not necessarily subject to the provisions of the Bill. However, the Committee has a preference against regulations that can modify the application

of the provisions of principal legislation. The Committee draws this to the attention of Parliament.

The Committee notes that empowering the regulations to modify the provisions of relevant State legislation as they relate to successor bodies has the effect of being a Henry VIII clause. The Committee refers this regulatory power to Parliament.

*Exemptions from the operation of the Act in the regulations*

The Committee notes that empowering the regulations to exempt any person, matter or thing from the operation of the principal Act prevents the Parliament from scrutinising what person, matter or thing is proposed to be exempted from the operation of the principal Act. The Committee refers this regulatory power to Parliament.

The Committee notes that empowering the regulations to modify the provisions of the principal Act in their application to conditional Crown land may enable the Minister to make regulations that are contrary to the principal legislation. The Committee refers this regulatory power to Parliament.

**Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA**

*Continuing functions after the repeal of Acts or statutory rules*

The Committee notes that Parliament has a reasonable expectation that, when it repeals a statutory function, that such a function will no longer be exercised. Parliament does not consider it appropriate for a Minister to authorise the completion of a function that is no longer a statutory function. The Committee refers to Parliament Schedule 1[43] which would empower the exercise of functions that Parliament has repealed, and which also provides the Minister with the power to authorise the completion of a function which has been repealed.

3. STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2017

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

*Sufficient notice*

The Committee notes that Schedule 3 of the Bill removes the provision that penalty notices may be served personally or by post. The Committee acknowledges that it is not a requirement that service be effected personally or by post under the existing Acts, and that removal of this provision is in accordance with the enactment of the *Fines Amendment (Electronic Penalty Notices) Act 2016*. However the removal of this provision may lead to uncertainty as to what constitutes effective service and whether a person is able to have sufficient notice of having received a penalty notice if served by other means.

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

*Ill-defined and wide-ranging powers*

The Committee notes that Schedule 1.1[4] empowers the Minister to approve or consent to ancillary functions of land of Barangaroo Reserve which may be given, limited or withdrawn at any time. The committee notes that these wide-ranging powers may create a lack of certainty for persons and business owners with interests pertaining to Barangaroo Reserve and surrounding areas.

*Uncertainty*

The Committee notes that Schedule 1.8 amends the *Fisheries Management Act 1994 No 38* to allow the variation or revocation of a notice at the initiative of the Minister. This may have the effect of creating uncertainty about the period of the notice and not allow a person sufficient time to comply with the conditions of the notice to carry out work or remove things from the land to maintain the area of the aquaculture lease in a tidy condition.

4. TRANSPORT ADMINISTRATION AMENDMENT (CLOSURE OF RAILWAY LINE BETWEEN ROSEWOOD AND TUMBARUMBA) BILL 2017

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

*Retrospectivity*

The Committee notes that clause 3 operates retrospectively and that the closure and sale of the railway line could have a potential impact on the interests and property rights of adjoining landowners.

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

*Certainty*

The Committee notes that the Bill empowers the rail infrastructure owner to close the whole or any part of the railway line. It is not clear to the Committee whether the rail infrastructure owner may only close the railway line in order to achieve the objective of this Bill, being the development of a rail trail. The Committee draws this lack of certainty to the attention of Parliament.



## Part One – Bills

### 1. Civil Liability (Third Party Claims Against Insurers) Bill 2017

Date introduced	3 May 2017
House introduced	Legislative Council
Minister responsible	The Hon. Donald Harwin MLC
Portfolio	Minister for Resources, Minister for Energy and Utilities, Minister for Arts and Vice-President of the Executive Council

#### PURPOSE AND DESCRIPTION

1. The object of the Bill is to replace section 6 of the *Law Reform (Miscellaneous Provisions) Act 1946* ('the principal Act') and give effect to the recommendations made in the NSW Law Reform Commission Report 143: Third party claims on insurance money.
2. The Bill replaces section 6 of the principal Act and empowers a third party to bring proceedings directly against the insurer in respect of his or her claim for damages, compensation or costs against the insured persons (rather than proceeding to enforce a specially created statutory charge).

#### BACKGROUND

3. In his second reading speech, the Hon. David Clarke MLC on behalf of the Hon. Donald Harwin MLC noted the Bill seeks to resolve the 'complexity and uncertainty associated with the current operation of section 6 (of the principal Act).' The Bill also removes the concept of the statutory charge.
4. Section 6 of the principal Act allows a plaintiff to access proceeds of insurance where proceedings against an insured defendant are not possible or would be pointless - including instances such as the defendant being missing or insolvent.
5. Mr Clarke noted the intention of section 6 of the principal Act:

'Section 6 was enacted to prevent insured persons forming collusive arrangements with their insurers to avoid paying third party claimants and to prevent insured persons "running away with" insurance money. It does this by creating the concept of a statutory charge, which can be asserted and enforced by a plaintiff directly against the insurer over all insurance money that may be payable under a contract of insurance in respect of the insured defendant's liability.

The charge is created "on the happening of the event giving rise to the claim for damages or compensation" against the insured defendant.'

6. On the 22 February 2016, the former Attorney General asked the Law Reform Commission to review section 6 of the principal Act and whether the policy objectives remained valid and, if so, whether those aims could be better achieved. The Commission found that the aims of section 6 remained valid and made 13 recommendations to provide a 'clearer, more effective provision than section 6.'

## ISSUES CONSIDERED BY COMMITTEE

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

#### *Restricting judicial discretion*

7. Clause 5(4) provides that the court must refuse leave if the insurer can establish that it is entitled to disclaim liability under the contract of insurance or under any Act or law.
8. The Committee has concerns that clause 5(4) removes judicial discretion when determining whether to refuse leave. The Committee also notes that in the NSW Law Reform Commission's report into Third party claims on insurance money, the Commission outlined its intention for the court's discretion to continue to operate in the same way with respect to the current section 6.<sup>1</sup>
9. The Commission recommended the retention of the prohibition to grant leave if the insurer can establish that it is entitled to disclaim liability under the contract of insurance or any relevant law. The Commission argued that it is an important protection for insurers to not be 'unnecessarily or inappropriately involved in the litigation, where there is no good reason for departing from the ordinary position of the plaintiff suing the defendant, not their insurer'.<sup>2</sup>

**The Committee notes the removal of judicial discretion may impact on an individual's right to sue an insurer under the principal Act. However given the policy intentions and the findings of the NSW Law Reform Commission's report into Third party claims on insurance money, the restriction is reasonable in the circumstances and the Committee makes no further comment.**

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<sup>1</sup> New South Wales Law Reform Commission, Third party claims on insurance money: Review of s 6 of the Law Reform (Miscellaneous Provisions) Act 1946, report 143, 2016, p36  
(<http://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report%20143.pdf>)

<sup>2</sup> New South Wales Law Reform Commission, Third party claims on insurance money: Review of s 6 of the Law Reform (Miscellaneous Provisions) Act 1946, report 143, 2016, p36  
(<http://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report%20143.pdf>)

## 2. Crown Land Legislation Amendment Bill 2017

Date introduced	2 May 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Paul Toole
Portfolio	Minister for Lands and Forestry

### PURPOSE AND DESCRIPTION

1. The *Crown Land Management Act 2016* (the *principal Act*) consolidates in one Act the statutory provisions dealing with the ownership, use and management of the Crown land of New South Wales. The Bill for the principal Act was described in its explanatory note as being the first stage of the process of creating a new legislative regime for Crown land, with a second Bill to be introduced in 2017 to make consequential amendments to legislation and further repeals if required.
2. The objects of this Bill are:
  - (a) to amend the principal Act:
    - i to abolish the Public Reserves Management Fund and establish instead a Crown Reserves Improvement Fund under the principal Act and provide for its use, and
    - ii to provide for the consequential repeal of the *Public Reserves Management Fund Act 1987*, and
    - iii to make further provision with respect to matters of a savings or transitional nature and amendments in the nature of statute law revision, and
  - (b) to amend the *Roads Act 1993* to make further provision with respect to Crown roads and public roads, and
  - (c) to make amendments to certain legislation that are consequential on the enactment of the principal Act and the proposed Act.

### BACKGROUND

3. Noting that Crown land estate covers 42 per cent of New South Wales, the Minister in his Second Reading speech outlined that the Government was committed to improving the management of this land. The Minister referred to the 2012 Crown Lands Management Review, which made a number of recommendations. One of the recommendations was to consolidate multiple pieces of legislation relating to Crown land into one Act. This Bill implements that recommendation.

## ISSUES CONSIDERED BY COMMITTEE

**Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA***Revocation of appointment without notice or compensation*

4. Schedule 1[11] provides that the Minister may revoke a person's appointment as a Crown land manager at any time for any or no reason. It also provides that such revocation does not give rise to an entitlement to compensation. Schedule 1[12] provides that the assets, rights and liabilities of a Crown land manager may be required to be transferred to one or more persons. 'Persons' in this instance is restricted to public authorities or new Crown land managers of dedicated or reserved Crown land.

**The Committee notes that the power to revoke an appointment at any time, for any or no reason with no right to compensation may constitute a trespass on personal rights and liberties. However, given that a Crown land manager is unlikely to be a natural person the Committee makes no further comment on this issue.**

5. Schedule 1[33] applies to statutory land managers with boards. This subclause provides that the Minister may at any time remove a person from the office of Chairperson or Deputy Chairperson. Schedule 5(36) of the principal Act provides that such a person would not be entitled to any remuneration or compensation because of the loss of that office.

**The Committee notes that the power to revoke the appointment of the Chair or Deputy Chair of statutory land manager at any time, for any or no reason with no right to compensation may constitute a trespass on personal rights and liberties.**

*Public enjoyment of Crown land*

6. Schedule 1[20] broadens the Minister's power of sale in relation to dedicated or reserved Crown land. Subsection 5.3(5) of the principal Act explicitly states that section 5.3 does not outline a power to authorise the sale of dedicated or reserved Crown land. This Bill seeks to amend that proviso, so that it will read that this section does not outline a power to authorise the sale of Crown land that is dedicated or reserved for a public purpose.

**The Committee notes that the effect of amending subsection 5.3(5) of the principal Act as proposed is to provide the Minister with greater scope for the sale of Crown land which has not been dedicated or reserved for a 'public purpose'.**

*Use of public roads*

7. Schedule 3[7] provides a local council with the power to close a local council public road if the road is not reasonably required as road for public use.

**The Committee notes that the closing of local council public roads by local councils is subject to a number of conditions, including a notification process, a call for public submissions and formal objections, and an appeal right to the Land and Environment Court. Whilst the Committee notes the real impact that the closure of a public road may have on some individuals, given the thresholds**

**included in the Bill the Committee does not consider the trespass to be unreasonable in these circumstances.**

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

##### *Henry VIII clause*

8. Schedule 1[18] provides that the regulations may make provision for or with respect to the modification of the provisions of the Bill in their application to land that is purchased or leased or over which an easement is acquired under proposed section 3.28A.

**The Committee notes the administrative convenience of enabling the regulations to modify the provisions of the Bill in relation to land that is purchased or leased or over which an easement is acquired. The Committee also notes that such land may not necessarily be considered Crown land, and therefore not necessarily subject to the provisions of the Bill. However, the Committee has a preference against regulations that can modify the application of the provisions of principal legislation. The Committee draws this to the attention of Parliament.**

9. Schedule 1[54] outlines the circumstances of the transfer of regulatory authorisations from an abolished body to a successor body. Schedule 1[54] outlines that the provisions of the relevant State legislation apply in relation to a successor body subject to any modifications prescribed by the regulations.

**The Committee notes that empowering the regulations to modify the provisions of relevant State legislation as they relate to successor bodies has the effect of being a Henry VIII clause. The Committee refers this regulatory power to Parliament.**

##### *Exemptions from the operation of the Act in the regulations*

10. Schedule 1[30] provides that the regulations may exempt any person, matter or thing from the operation of the principal Act or any specified provision of the principal Act, either unconditionally or subject to conditions.

**The Committee notes that empowering the regulations to exempt any person, matter or thing from the operation of the principal Act prevents the Parliament from scrutinising what person, matter or thing is proposed to be exempted from the operation of the principal Act. The Committee refers this regulatory power to Parliament.**

11. Schedule 1[42] outlines the special provisions for conditional Crown land, including when conditional Crown land can become Crown land and when conditional Crown land can be sold. Schedule 1[42] also provides that the regulations may make provision for or with respect to the modification of the provisions of the principal Act in their application to conditional Crown land.

**The Committee notes that empowering the regulations to modify the provisions of the principal Act in their application to conditional Crown land may enable the Minister to make regulations that are contrary to the principal legislation. The Committee refers this regulatory power to Parliament.**

**Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA**

*Continuing functions after the repeal of Acts or statutory rules*

12. Schedule 1[43] provides that a repealed function may continue to be exercised if the uncompleted function would not have required the granting of authorisation by the Minister.
13. Schedule 1[43] also provides that a repealed function may continue to be exercised even if that uncompleted function would have required the granting of authorisation by the Minister in circumstances where the Minister provides such authorisation.

**The Committee notes that Parliament has a reasonable expectation that, when it repeals a statutory function, that such a function will no longer be exercised. Parliament does not consider it appropriate for a Minister to authorise the completion of a function that is no longer a statutory function. The Committee refers to Parliament Schedule 1[43] which would empower the exercise of functions that Parliament has repealed, and which also provides the Minister with the power to authorise the completion of a function which has been repealed.**

### 3. Statute Law (Miscellaneous Provisions) Bill 2017

Date introduced	3 May 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Mark Speakman SC MP
Portfolio	Attorney General

#### PURPOSE AND DESCRIPTION

1. The object of this Bill is to repeal and amends certain Acts, regulations and instruments for the purpose of effecting statute law revision.

#### BACKGROUND

2. The Hon. Mark Speakman SC MP noted in his second reading speech that the focus of the Bill is to make minor policy changes that are too inconsequential to warrant the introduction of a separate amending Bill.

#### ISSUES CONSIDERED BY COMMITTEE

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

###### *Sufficient notice*

3. Schedule 3 of this Bill amends the listed Acts to remove the provision that penalty notices may be served personally or by post.

**The Committee notes that Schedule 3 of the Bill removes the provision that penalty notices may be served personally or by post. The Committee acknowledges that it is not a requirement that service be effected personally or by post under the existing Acts, and that removal of this provision is in accordance with the enactment of the *Fines Amendment (Electronic Penalty Notices) Act 2016*. However the removal of this provision may lead to uncertainty as to what constitutes effective service and whether a person is able to have sufficient notice of having received a penalty notice if served by other means.**

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

###### *Ill-defined and wide-ranging powers*

4. Schedule 1.1[4] of the Bill amends the *Barangaroo Delivery Authority Act 2009 No 2* to insert section 24A which provides that the approval or consent of the Minister under this Division may be given generally or be limited to a particular case or class of cases and may be withdrawn at any time.

**The Committee notes that Schedule 1.1[4] empowers the Minister to approve or consent to ancillary functions of land of Barangaroo Reserve which may be given, limited or withdrawn at any time. The committee notes that these wide-ranging powers may create a lack of certainty for persons and business owners with interests pertaining to Barangaroo Reserve and surrounding areas.**

*Uncertainty*

5. Schedule 1.8[1] amends section 162(2) and section 171(3) of the *Fisheries Management Act 1994 No 38* to allow the Minister to have the discretion to vary or revoke a notice at the Minister's own initiative.

**The Committee notes that Schedule 1.8 amends the *Fisheries Management Act 1994 No 38* to allow the variation or revocation of a notice at the initiative of the Minister. This may have the effect of creating uncertainty about the period of the notice and not allow a person sufficient time to comply with the conditions of the notice to carry out work or remove things from the land to maintain the area of the aquaculture lease in a tidy condition.**



## 4. Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017

Date introduced	2 May 2017
House introduced	Legislative Assembly
Minister responsible	The Hon. Andrew Constance MP
Portfolio	Minister for Transport and Infrastructure

### PURPOSE AND DESCRIPTION

1. The object of this Bill is to amend the *Transport Administration Act 1988* (the principal Act) to authorise the rail infrastructure owner to close the railway line that runs from McEachern Lane, Rosewood to Tumbarumba in order to create a rail trail for walking and bicycle use.

### BACKGROUND

2. The Hon. Andrew Constance MP noted in his second reading speech that the focus of the Bill is to close the non-operational railway line between Rosewood and Tumbarumba to progress the development of a rail trail along the corridor.
3. The closure of the non-operational railway line is intended to boost tourism, provide employment opportunities during the construction phase of the trail, and maintain public ownership.

### ISSUES CONSIDERED BY COMMITTEE

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

##### *Retrospectivity*

4. The Bill seeks to close the railway line between Rosewood and Tumbarumba, in accordance with section 99A of the principal Act, for the development of the railway corridor. The application of this Bill provides for actions of the rail infrastructure owner before the commencement of this Part.

**The Committee notes that clause 3 operates retrospectively and that the closure and sale of the railway line could have a potential impact on the interests and property rights of adjoining landowners.**

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

*Certainty*

5. The Bill authorises a rail infrastructure owner to close the whole or any part of the railway line between Rosewood and Tumbarumba.

**The Committee notes that the Bill empowers the rail infrastructure owner to close the whole or any part of the railway line. It is not clear to the Committee whether the rail infrastructure owner may only close the railway line in order to achieve the objective of this Bill, being the development of a rail trail. The Committee draws this lack of certainty to the attention of Parliament.**

# Appendix One – 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.