



Regulation Review Committee

PARLIAMENT OF NEW SOUTH WALES

Report No. 4
December 1988

REGULATION REVIEW COMMITTEE

FOURTH REPORT TO PARLIAMENT ON REGULATIONS

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REGULATION REVIEW COMMITTEE

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REPORT

The Regulation Review Committee was established under the Regulation Review Act 1987. A principal function of it is to consider all regulations while they are subject to disallowance by Parliament.

In examining a regulation the Committee is required to consider whether the special attention of Parliament should be drawn to it on any ground, including any of the following:-

- (a) that the regulation trespasses unduly on personal rights and liberties;
- (b) that the regulation may have an adverse impact on the business community;
- (c) that the regulation may not have been within the general objects of the legislation under which it was made;
- (d) 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;
- (e) that the objective of the regulation could have been achieved by alternative and more effective means;
- (f) that the regulation duplicates, overlaps or conflicts with any other regulation or Act; or
- (g) that the form or intention of the regulation calls for elucidation.

The Committee may, as a consequence of its examination of a regulation, make such reports and recommendations to each House of Parliament as it thinks desirable.

1. **Statutory Rules and Instruments**

According to Section 40(1) of the Interpretation Act 1987, written notice of all statutory rules which have been published in the Government Gazette must be laid upon the table of each House of Parliament within 14 sitting days of that House after the day on which they are so published.

The Regulation Review Committee notes that in the list printed by the Legislative Assembly Office for 15 November 1988, of Statutory Instruments Laid Upon The Table that 120 out of a total of 257 statutory rules and instruments had not been tabled within the required 14 sitting days.

Additionally, the Committee has observed that notice of a further 36 statutory rules and instruments or 14% had been tabled but not within the required 14 day sitting period. This means that as at 15 November 1988, written notice had not been properly given, or not given at all, in respect of 61% of the statutory instruments set out in the list prepared by the Legislative Assembly Office.

A full list of those statutory rules which have not been tabled within the time specified by section 40 of the Interpretation Act as at 15 November 1988, appears in **Appendix 1**.

Although failure to table notice of a statutory rule does not affect its validity, it substantially deprives Parliament of the formal notice intended to be given to it for the purposes of the review of that particular statutory rule. Accordingly, the Committee wishes to draw the attention of each Minister to this matter.

2. Children (Community Service Orders) Act 1987 -
Children (Community Service Orders) Regulation 1988
Published in Gazette No. 2 of 8 January 1988

This regulation prescribes the manner in which Community Service Orders must be served by young offenders.

Clause 9 of the regulation gives the assigned officer the power to exclude the whole or a part of the community service work performed, from the calculation of time spent in community service if the offender conducts him or herself in an offensive manner.

The Committee was concerned that there was no explanation in the regulation or in the program's administrative guidelines as to what would constitute offensive behaviour and what penalties were appropriate for instances of offensive behaviour. It was the Committee's view that this provision was open to arbitrary and subjective judgements, possibly even unscrupulous abuse, from which the young offender had no formal right of appeal.

The Committee outlined these concerns in a letter to the Minister for Family and Community Services, The Hon. Virginia Chadwick, M.L.C., dated 26 July 1988. On 27 October 1988, the Minister advised that she shared the Committee's views about this provision. She informed the Committee that assigned officers have been instructed to gain approval from their supervising officers prior to excluding time from a community service order because of offensive behaviour. Young offenders will have the right to discuss such decisions with their supervising officers as well.

All correspondence on this issue appears in **Appendix 2**.

3. **Compensation Court Act 1984 - Rules**
Published in Gazette No. 66 of 31 March 1988.

The Regulation Review Committee has previously reported in some detail to Parliament on this matter.¹ In considering amendments to the Compensation Court Rules, the Committee was surprised to discover that no comprehensive set of rules has ever been printed, officially, and it was agreed to take up this matter with the Court.

The Chief Judge of the Compensation Court, Judge McGrath, informed the Committee that the Court's Rules Committee is opposed to any consolidated reprint of the current rules. The reason for this is that all aspects of Workers Compensation are currently under review by a variety of State Government Committees. As significant changes are now forecast in the workers compensation area, any consolidated reprint is perceived to be an unnecessary and costly exercise at this stage. Nevertheless, the Chief Judge has undertaken to print a full set of the rules once the expected changes to the workers compensation area have been made.

On the basis of information received from the Law Society of New South Wales, the Committee also understands that no specific complaints have ever come from practitioners in the field, regarding the absence of a consolidated set of court rules. In the absence of any specific problems with the rules as they now stand and in light of the Judge's commitment to re-print a consolidated set of rules in the future, the Committee has agreed not to pursue this matter.

All correspondence on this issue appears in **Appendix 3**.

¹ Regulation Review Committee, Second Report to Parliament, 25 August 1988.

4. Justices Act 1902 - Justices (Warrants of Commitment)
Regulation 1986
Published in Gazette No. 8 of 15 January 1988

The Regulation Review Committee has reported in detail to Parliament on this regulation.¹ The regulation prescribes the manner in which an authorised justice shall be notified to issue a warrant to commit a person to prison for non-payment of traffic fines.

The Committee indicated then that it would approach the Attorney-General seeking the clarification in a number of areas. The Committee's concerns rested chiefly on two grounds. Firstly, that the regulation should specify an appropriately senior level of official to exercise powers affecting the liberty of persons and secondly, the regulation appears to vest in the Commissioner for Motor Traffic powers outside his customary jurisdiction.

The Attorney-General has now provided the Committee with a detailed response to the issues raised and this appears in **Appendix 4**. Generally, the Minister has expressed the view that there is no infringement of the citizen's rights and liberties in the regulation when taken in the context of the total fine enforcement scheme. Nevertheless, he has undertaken to replace the word "shall" with "may" throughout the regulation and this should bring the regulation more into line with the principal Act. The Minister has agreed to seek the views of the Minister for Transport on whether the words "or on behalf of" should be deleted.

¹ Regulation Review Committee, First Report to Parliament, 17 August 1988.

5. **Local Courts (Civil Claims) Rules**
Published in Gazette No. 8 of 15 January 1988

The Regulation Review Committee has reported in detail to Parliament on this matter¹. The rule amended Rule 38C which concerns the powers that Court Registrars can exercise in lieu of certain local courts.

The Committee indicated that it considered Rule 38(1)(C) was not within the general objects of the Local Courts (Civil Claims) Act 1970. The Committee recommended that the Attorney General should bring forward amendments to the Rule so as to bring it within the powers conferred by Section 84(1A) (b) of the Principal Act.

In part, the Minister has informed the Committee that "this Rule has been in existence since 1985 and it has not been challenged or been the subject of adverse comment. Parliamentary Counsel acknowledges that it could be argued the Rule is ultra vires but he is of the opinion that it is within the general Rule-making power".

The Minister has also advised the Committee that a complete revision of the Local Courts (Civil Claims) Rules is being currently finalised, during which any doubts about the validity of the regulation will be resolved. On the basis of the information supplied, the Committee does not intend to pursue this matter.

All correspondence on this issue appears in **Appendix 5**.

¹ Regulation Review Committee, First Report to Parliament, 17 August 1988.

6. Local Government Act 1919 - Ordinance Amending Ordinance
No. 46

Published in Gazette No. 41 of 26 February 1988

The Regulation Review Committee has previously reported in some detail to Parliament on this matter¹. The Ordinance Amended Ordinance No. 46 of the Local Government Act 1919 chiefly for the purpose of introducing a new system of sewerage known as a common effluent drainage system.

The Committee made known its serious concerns over at least one clause of the Ordinance. In particular, Clause 15A(2) was perceived to be open to abuse in such a way that it would have an adverse impact on business. This stemmed from what appeared to be an unintended restrictive trade practice in the control of substances used for joining drainage and sewerage pipes.

The Committee commends the Minister for Local Government, David Hay, MP, who responded swiftly to this aspect of the Committee's recommendation and on 30 August 1988 gave Parliament an undertaking to amend the Ordinance.

A full copy of the Minister's Statement appears with all other correspondence in **Appendix 6**.

¹ Regulation Review Committee, Second Report to Parliament, 25 August 1988.

7. **Miscellaneous Acts (Victims Compensation) Repeal and
Amendment Regulation 1987**

Published in Gazette No. 199 of 31 December 1987

The regulation allows persons to seek compensation under the Victims Compensation Act 1987 for acts of violence committed before the commencement of the Act provided that no application or claim for compensation was made or finally determined before the Act was made.

In examining this regulation, the Committee noticed that Clause 4 of the regulation had the effect of making the Crimes Act 1900 continue to apply in relation to claims for compensation for loss for offences committed before 1 January 1989, as if the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Act 1987 had not been enacted.

When the Statute Law (Miscellaneous Provisions) Act 1988 amended Part VI of the Victims Compensation Act 1987 to make provision for claims for compensation for loss, it had the effect in the Committee's view of duplicating the provisions in Clause 4 of the regulation.

The Attorney General advised the Committee on 4 November 1988 that steps were being taken to repeal this unnecessary regulation.

All correspondence on this issue appears in Appendix 7.

8. **Motor Traffic Act 1909 - Regulation - Section 95**
Published in Gazette No. 56 of 18 March 1988

Section 95(6)(d)(ii) of the Motor Traffic Regulation deals with the use of motor vehicle warning lights. The amendments considered by the Committee were aimed at restricting the use of car warning lights to a set number of emergency situations.

The Committee observed that amendments to the Motor Traffic Regulations such as this, are made regularly which prohibit or restrict a certain activity on the part of motor vehicle drivers. To be effective, such regulations need the support and enforcement powers of the police.

Accordingly, the Committee approached the Minister for Transport, the Hon. Bruce Baird, M.P., in order to ascertain the nature of the consultation process that takes place when such regulations are made. In a letter of 18 October, 1988, the Minister assured the Committee that effective liaison does indeed take place between the relevant administrations including the Police Department at an early stage to ensure that appropriate procedures are in place prior to the regulation taking effect. Additionally, all Police Region Commanders are advised in advance when a traffic law enforcement regulation receives Ministerial approval.

All correspondence on this issue appears in Appendix 8.

9. **Motor Traffic Act 1909 - Regulation - Section 124**
Published in Gazette No. 110 of 1 July 1988

Section 124 of the Motor Traffic Regulations sets the speed limit for "motor lorries". On 1 July 1988, this speed limit was increased from 90 km/h to 100 km/h. The Committee decided to seek advice from the Minister for Transport on whether safety issues associated with the speed increase had been examined.

The Committee has since been advised that the decision to increase the speed limits for such vehicles was taken at the Australian Transport Advisory Council meeting in December 1987 and that the new limit was to apply nationwide as from 1 July 1988.

The NSW Ministry of Transport has informed the Committee that a favourable evaluation on the increase of the speed limit for heavy vehicles was provided by the Federal Office of Road Safety.

The Chairman of the Joint Standing Committee on Road Safety, Paul Zammit, M.P., has indicated that the whole question of speed limits for heavy vehicles is one of grave concern to his committee. Mr Zammit has further advised that Staysafe intends investigating the heavy vehicle speed limit issue in the near future.

All correspondence on this issue appears in Appendix 9.

10. **Factories, Shops and Industries Act 1962 - Shops
(Registration and Opening and Closing Hours) Regulation
Published in Gazette No. 170 of 6 November 1987**

This regulation is one of a series which prescribes the closing times of shops and shopping centres. A regulation of this nature is made upon each occasion when it is required to provide an extension to normal closing times of shops. For example, the regulation in this particular instance provided that on Thursday 24 September 1987, general shops in the area bounded by King, George, Park and Elizabeth Streets would have a closing time set at midnight.

Although these regulations are later repealed by other regulations of a similar nature, the Committee was concerned to know whether prior to granting such a concession to particular shops, the effect of the extended opening hours on other shops in their area is assessed by the Department of Industrial Relations and Employment. The Committee took the opportunity to outline this matter to the Minister, John Fahey, M.P., on 25 July 1988.

In reply to the Committee on 21 September 1988, the Minister has stated that as the regulations were made during the term of office of the previous Government, he was unaware of the reasons for which these regulations were made. He assured the Committee that when faced with a similar situation he would "invite comments from the appropriate retailers' organisations and the unions covering retail sector employees before deciding whether to grant the request".

All correspondence on this issue appears in **Appendix 10**.

STATUTORY RULES SUBJECT TO DISALLOWANCE
(under s. 41 of the Interpretation Act 1987)

The following statutory rules have not yet been tabled within the required time as at 15 November 1988.

Animal Research Act 1985 - Animal Research (Education Advisory Committee) Regulation 1988
GG No. 132 12.8.88 p. 4258
Latest Tabling Date: 22.9.88

Apprenticeship Act 1981 - Apprenticeship (General) Regulation 1982.
GG No. 119 22.7.88 p. 3849
Latest Possible Tabling Date: 21.9.88

Bail Act 1978 - Regulation
GG No. 33 19.2.88 p. 949
Latest Possible Tabling Date: 23.8.88

Bail Act 1978 - Regulation
GG No. 33 19.2.88 p. 949
Latest Possible Tabling Date: 23.8.88

Bicentennial Park Trust Act 1987 - Regulation
GG No. 196 24.12.87 p. 7125
Latest Possible Tabling Date: 23.8.88

Boxing Authority Act 1986 - Regulation
GG No. 77 22.4.88 p. 2300
Latest Possible Tabling Date: 23.8.88

Children (Care and Protection) Act 1987 - Children (Care and Protection - General) Regulation 1988
GG No. 140 2.9.88 p.4608
Latest Possible Tabling Date: 10.11.88

Children (Community Service Orders) Act 1987 - Regulation
GG No. 140 2.9.88 p. 4609
Latest Possible Tabling Date: 10.11.88

Children (Criminal Proceedings) Act 1987 - Children (Criminal Proceedings) Regulation 1988
GG No. 8 15.1.88 p. 206
Latest Possible Tabling Date: 23.8.88

Children (Detention Centres) Act 1987 - Regulation
GG No. 140 2.9.88 p. 4606
Latest Possible Tabling Date: 10.11.88

Clean Air Act 1961 - Regulation
GG No. 140 2.9.88 p. 4606
Latest Possible Tabling Date: 10.11.88

Closer Settlement Acts - Closer Settlement (General) Regulations
GG No. 18 29.1.88 p. 542
Latest Possible Tabling Date: 23.8.88

Coal Acquisition Act 1981 - Coal Acquisition (Compensation)
Arrangements
GG No. 173 13.11.87 p. 6306
Latest Possible Tabling Date: 31.5.88

Community Welfare Act 1987 - Community Welfare (Facilities) Order
1988
GG No. 8 15.1.88 p. 223
Latest Possible Tabling Date: 23.8.88

Community Welfare Act 1987 - Community Welfare (Facilities) Order
1988
GG No. 52 11.3.88 p. 1574
Latest Possible Tabling Date: 23.8.88

Companies (Application of Laws) Act 1981 - Companies (Application
of Laws - Fees) Regulation 1988
GG No. 105 24.6.88 p. 3284
Latest Possible Tabling Date: 21.9.88

Compensation Court Act 1984 - Rules
GG No. 2 8.1.88 p. 78
Latest Possible Tabling Date: 23.8.88

Construction Safety Act 1912 - Regulation
GG No. 105 24.6.88 p. 3310
Latest Possible Tabling Date: 21.9.88

Conveyancing Act 1919 - Regulation
GG No. 193 18.12.87 p. 6968
Latest Possible Tabling Date: 23.8.88

Co-operation Act 1923 - Co-operatives Regulations 1961
GG No. 56 18.3.88 p. 1682
Latest Possible Tabling Date: 23.8.88

Co-operation Act 1923 - Regulation
GG No. 193 18.12.87 p. 6952
Latest Possible Tabling Date: 23.8.88

Co-operation Act 1923 - Regulation
GG No. 24 8.2.88 p. 715
Latest Possible Tabling Date: 23.8.88

Co-operation Act 1923 - Regulation
GG No. 41 26.2.88 p. 1188
Latest Possible Tabling Date: 23.8.88

Co-operation Act 1923 - Regulation
GG No. 52 11.3.88 p. 1533
Latest Possible Tabling Date: 23.8.88

Co-operation (Amendment) Act 1986 - Regulation
GG No. 41 26.2.88 p. 1187
Latest Possible Tabling Date: 23.8.88

Co-operation (Amendment) Act 1986 - Co-operation (1986 Amendment)
Transitional Regulation (No. 2) 1988
GG No. 52 11.3.88 p. 1534
Latest Possible Tabling Date: 23.8.88

Credit Union Act 1969 - Regulation
GG No. 193 18.12.87 p. 6952
Latest Possible Tabling Date: 23.8.88

Credit Union Act 1969 - Regulation
GG No. 193 18.12.87 p. 6953
Latest Possible Tabling Date: 23.8.88

Credit Union Act 1969 - Regulation
GG No. 193 18.12.87 p. 6953
Latest Possible Tabling Date: 23.8.88

Credit Union Act 1969 - Regulation
GG No. 140 2.9.88 p. 4611
Latest Possible Tabling Date: 10.11.88

Credit Union Act 1969 - Regulation
GG No. 140 2.9.88 p. 4612
Latest Possible Tabling Date: 10.11.88

Credit Union Act 1987 - Regulation
GG No. 56 18.3.88 p. 1683
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - Regulation
GG No. 12 22.1.88 p. 409
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
GG No. 12 22.1.88 p. 410
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - Regulation
GG No. 18 29.1.88 p. 544
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
GG No. 28 12.2.88 p. 889
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
GG No. 49 4.3.88 p. 1483
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
GG No. 52 11.3.88 p. 1510
Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 52 11.3.88 p. 1618
 Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 63 25.3.88 p. 2000
 Latest Possible Tabling Date: 23.8.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 114 8.7.88 p. 3702
 Latest Possible Tabling Date: 21.9.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 114 8.7.88 p. 3700
 Latest Possible Tabling Date: 21.9.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 119 22.7.88 p. 3908
 Latest Possible Tabling Date: 21.9.88

Crown Lands Consolidation Act 1913 - By-Law
 GG No. 134 19.8.88 p. 4428
 Latest Possible Tabling Date: 12.10.88

Crown Lands Consolidation Act 1913 - By-Law Newcastle
 (District Park) Tennis Courts By-law 1988
 GG No. 82 6.5.88 p. 2653
 Latest Possible Tabling Date: 24.8.88

Darling Harbour Authority Act 1984 - Regulation
 GG No. 8 15.1.88 p. 175
 Latest Possible Tabling Date: 23.8.88

Darling Harbour Authority Act 1984 - Regulation
 GG No. 8 15.1.88 p. 185
 Latest Possible Tabling Date: 23.8.88

Darling Harbour Authority Act 1984 - Regulation
 GG No. 95 3.6.88 p. 2955
 Latest Possible Tabling Date: 21.9.88

Darling Harbour Authority Act 1984 - Darling Harbour (Management
 of Public Areas) Regulation 1988
 GG No. 8 15.1.88 p. 176
 Latest Possible Tabling Date: 23.8.88

Darling Harbour Authority Act 1984 - Darling Harbour (Monorail)
 Regulation 1988
 GG No. 88 20.5.88 p. 2736
 Latest Possible Tabling Date: 31.8.88

Darling Harbour Authority Act 1984 - Darling Harbour (Monorail)
 Regulation 1988
 GG No. 102 17.6.88 P. 3174
 Latest Possible Tabling Date: 21.9.88

District Court Act 1973 - Forms
GG No. 193 18.12.87 p. 7000
Latest Possible Tabling Date: 23.8.88

District Court Act 1973 - Forms
GG No. 199 31.12.87 p. 7297
Latest Possible Tabling Date: 23.8.88

Drug Misuse and Trafficking Act 1985 - Regulation
GG No. 33 19.2.88 p. 953
Latest Possible Tabling Date: 23.8.88

Education and Public Instruction Act 1987 - Regulation
GG No. 2 8.1.88 p. 24
Latest Possible Tabling Date: 23.8.88

Education and Public Instruction (Savings and Transitional Provisions) Regulation 1987
GG No. 2 8.1.88 p. 23
Latest Possible Tabling Date: 23.8.88

Egg Industry Act 1983 - Regulation
GG No. 114 8.7.88 p. 3650
Latest Possible Tabling Date: 21.9.88

Electricity Act 1945 - Electrical Articles Regulation 1985
GG No. 149 30.9.88 p. 5133
Latest Possible Tabling Date: 9.11.88

Electricity Act 1945 - Electricity Development (Registration and Licensing) Regulation 1984
GG No. 149 30.9.88 p. 5134
Latest Possible Tabling Date: 9.11.88

Environmental Planning and Assessment Act 1979 - Regulation
GG No. 173 13.11.87 p. 6329
Latest Possible Tabling Date: 31.5.88

Farm Produce Act 1923 - Regulation
GG No. 28 12.2.88 p. 835
Latest Possible Tabling Date: 23.8.88

Forestry Act 1916 - Regulation
GG No. 196 24.12.87 p. 7140
Latest Possible Tabling Date: 23.8.88

Friendly Societies Act 1912 - Regulations
GG No. 179 20.11.87 p. 6459
Latest Possible Tabling Date: 2.6.88

Government Railways Act 1912 - State Rail Authority By-law
GG No. 184 27.11.87 p. 6613
Latest Possible Tabling Date: 23.8.88

Hay Irrigation Act 1902 - Regulation

GG No. 18 29.1.88 p. 544

Latest Possible Tabling Date: 23.8.88

Home Care Service Act 1988 - Regulation

GG No. 142 9.9.99 p. 4732

Latest Possible Tabling Date: 9.11.88

Horticultural Stock and Nurseries Act 1969 - Regulation

GG No. 114 8.7.88 p. 3650

Latest Possible Tabling Date: 21.9.88

Institute of the Arts Act 1987 - Institute of the Arts
(Transferred Employees) Regulation

GG No. 199 31.12.87 p. 7267

Latest Possible Tabling Date: 23.8.88

Justices Act 1902 - Justices (Short Description of Motor Traffic
and Other Offences) Regulation 1986

GG No. 91 27.5.88 p. 2833

Latest Possible Tabling Date: 30.8.88

Liquor (Repeal and Savings) Act 1982 -

Liquor (Australian Wine Licences) Regulation 1984

GG No. 140 2.9.88 p. 4614

Latest Possible Tabling Date: 9.11.88

Macquarie University Act 1964 - By-law

GG No. 184 27.11.87 p. 6605

Latest Possible Tabling Date: 23.8.88

Macquarie University Act 1964 - By-law

GG No. 190 11.12.87 p. 6817

Latest Possible Tabling Date: 23.8.88

Motor Dealers Act 1974 - Regulations

GG No. 22 5.2.88 p. 585

Latest Possible Tabling Date: 23.8.88

National Parks and Wildlife Act 1974 - National Parks
and Wildlife (Land Management) Regulation 1987

GG No. 134 19.8.88 p. 4349

Latest Possible Tabling Date: 12.10.88

Noise Control Act 1975 - Regulation

GG No. 110 1.7.88 p.3485

Latest Possible Tabling Date: 21.9.88

Noxious Insects Act 1934 - Regulations

GG No. 2 8.1.88 p. 22

Latest Possible Tabling Date: 23.8.88

Occupational Health and Safety Act 1983 - Occupational
Health and Safety (First Aid) Regulation
GG No. 196 24.12.87 p. 7145
Latest Possible Tabling Date: 23.8.88

Pastures Protection Act 1934 - Regulation
GG No. 18 29.1.88 p. 547
Latest Possible Tabling Date: 23.8.88

Permanent Building Societies Act 1976 - Permanent Building
Societies (Prescribed Interest Interim Provisions) Regulation
1988
GG No. 79 29.4.88 p. 2416
Latest Possible Tabling Date: 24.8.88

Plant Diseases Act 1924 - Regulation
GG No. 138 16.8.88 p. 4481
Latest Possible Tabling Date: 19.10.88

Poisons Act 1966 - Regulation
GG No. 134 19.8.88 p. 4356
Latest Possible Tabling Date: 12.10.88

Police Regulation Act 1899 - Rule
GG No. 99 10.6.88 p. 3088
Latest Possible Tabling Date: 21.9.88

Prickly-Pear Act 1924 - Regulation
GG No 18 29.1.188 p. 547
Latest Possible Tabling Date: 23.8.88

Public Finance and Audit Act 1983 - Regulation
GG No. 28 12.2.88 p. 836
Latest Possible Tabling Date: 23.8.88

Public Health Act 1902 - Regulation
GG No. 140 2.9.88 p. 4601
Latest Possible Tabling Date: 9.11.88

Public Health Act 1902 - Public Health (Skin Penetration)
Regulation 1985
GG No. 134 19.8.88 p. 4358
Latest Possible Tabling Date: 12.10.88

Real Property Act 1900 - Regulation
GG No. 193 18.12.87 p. 6958
Latest Possible Tabling Date: 23.8.88

Returned Soldiers Settlement Act 1916 - Regulation
GG No. 18 29.1.88 p. 543
Latest Possible Tabling Date: 23.8.88

Reprints Act 1972 - Reprints (Mental Health Act) Order 1988
GG No. 68 8.4.88 p. 2128
Latest Possible Tabling Date: 23.8.88

Reprints Act 1972 - Reprints (Mental Health Act) Order (No. 2)
1988

GG No. 71 15.4.88 p. 2218

Latest Possible Tabling Date: 23.8.88

State Roads Act 1986 - State Roads (Excess Vehicle Weight Permit)
Regulation 1987

GG No. 118 15.7.88 p. 3766

Latest Possible Tabling Date: 21.9.88

Stock Diseases Act 1923 - Stock Diseases (special Quarantial
Areas) Regulation 1988

GG No. 33 19.2.88 p. 961

Latest Possible Tabling Date: 23.8.88

Strata Titles Act 1973 - Regulation

GG No. 193 18.12.87 p. 6965

Latest Possible Tabling Date: 23.8.88

Strata Titles Act 1973 - Regulation

GG No. 41 26.2.88 p. 1216

Latest Possible Tabling Date: 23.8.88

Supreme Court Act 1970 - Rule

GG No. 77 22.4.88 p. 2306

Latest Possible Tabling Date: 23.8.88

Sydney Turf Club Act 1943 - Regulation

GG No. 170 6.11.87 p. 6166

Latest Possible Tabling Date: 25.5.88

Therapeutic Goods and Cosmetics Act 1972 - Regulation

GG No. 140 2.9.88 p. 4602

Latest Possible Tabling Date: 9.11.88

University and University Colleges Act 1900 - By-law

GG No. 187 4.12.87 p. 6700

Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law

GG No. 190 11.12.87 p.6817

Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law

GG No. 190 11.12.87 p. 6818

Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law

GG No. 190 11.12.87 p. 6820

Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law

GG No. 190 11.12.87 p. 6822

Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 193 18.12.87 p. 6985
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 193 18.12.87 p. 6985
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p. 487
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p. 488
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p.489
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p. 490
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p. 493
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 18 29.1.88 p. 497
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 22 5.2.88 p. 595
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 22 5.2.88 p. 597
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 22 5.2.88 p. 598
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 22 5.2.88 p. 598
Latest Possible Tabling Date: 23.8.88

University and University Colleges Act 1900 - By-law
GG No. 22 5.2.88 p. 599
Latest Possible Tabling Date: 23.8.88

University of New South Wales Act 1968 - By-law
GG No. 85 13.5.88 p. 2653
Latest Possible Tabling Date: 24.8.88

Victim's Compensation Act 1987 - Rule
GG No. 119 22.7.88 p. 3850
Latest Possible Tabling Date: 21.9.88

Water Board Act 1987 - Water Board (Interest Charges) Regulation
GG No. 165 23.10.87 p. 5951
Latest Possible Tabling Date: 17.5.88

Water Board Act 1987 - Water Board (Finance) Regulation
GG No. 93 30.5.88 p. 2911
Latest Possible Tabling Date: 13.9.88

Wentworth Irrigation Act 1890 - Regulations
GG No. 18 29.1.88 p. 547
Latest Possible Tabling Date: 23.8.88



PARLIAMENT HOUSE.

SYDNEY, N.S.W. 2000

The Hon. V. Chadwick,
 Minister for Family and Children's Services,
 34th Level, Legal & General House,
 8-18 Bent Street,
SYDNEY 2000.

26 JUL 1988

Dear Mrs Chadwick,

You will recall that I wrote to you earlier concerning the work of the Regulation Review Committee.

At a meeting on 14 July the Committee considered a number of regulations that are currently subject to disallowance by one or both of the Houses of Parliament, including the Children (Community Service Orders) Regulation 1988 gazetted on 8 January, 1988.

The Committee is empowered to draw the attention of Parliament to a regulation on any ground including, in particular "that the regulation trespasses unduly on personal rights and liberties" and that the form or intention of the regulation calls for elucidation".

The Committee noted that clause 9(2)(b) of the regulation gives an assigned officer the power to exclude the whole or a part of the community service work performed from the calculation of time spent in community service if the offender conducts him or herself in an offensive manner. This means that the assigned officer can prolong a community service order. The Committee feels that the Department should specify procedures for independently reviewing decisions made by assigned officers to extend the duration of community service orders under the power provided in section 9(2)(b), in the event that an offender believes that a decision has been harsh or unjust.

I would appreciate your advice on the action taken in this regard in due course.

Yours sincerely,

Adrian Cruickshank
 Chairman,
Regulation Review Committee.



NEW SOUTH WALES

MINISTER FOR FAMILY AND
COMMUNITY SERVICES

Ref. No. 02691

27 OCT 1988

Mr A. Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House,
SYDNEY N.S.W. 2000 200

Dear Adrian,

I refer to your correspondence concerning the Children (Community Service Orders) Regulation 1988 gazetted on 8th January, 1988.

I share your concern regarding clause 9(2) of the regulations where the assigned officer has the power to exclude the whole or part of the community service work performed if the young offender is under the influence of drugs, alcohol or conducts him or herself in an offensive manner.

An instruction has been issued that assigned officers are to gain approval from their supervising officer prior to the exclusion of the time under Section 9(2) and that the young offender has the right to discuss the decision with the supervising officer.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Virginia Chadwick', written over a printed name.

Virginia Chadwick



The Hon. Mr Justice McGrath, OBE
 Compensation Court of N.S.W.,
 Citra House,
 131 Macquarie Street,
SYDNEY 2000.

PARLIAMENT HOUSE,

SYDNEY, N.S.W. 2000

2^o JUL 1988

Dear Judge McGrath,

The Regulation Review Committee was established under the Regulation Review Act, 1987 to review all Statutory Rules whilst they are subject to disallowance by Parliament.

Statutory Rules are defined in the Act to include rules of court.

In examining the Compensation Court Rule made by your Rules Committee on 17 March, 1988 (Government Gazette No. 66, 31 March, 1988 p. 2059) my committee's attention has been drawn to the fact that the Compensation Court Rules have not been reprinted since they were made, notwithstanding that many amendments have been made to the rules since that time.

Our concern is that the average practitioner let alone the average person would have difficulty in ascertaining the current rules from the officially published instruments.

Our view is reinforced by the fact that when they were originally made in 1984 no comprehensive set of rules was ever officially printed, instead the gazette notice provided that "so far as practicable" the Workers Compensation Rules 1926 which were in force as at the commencement of the Compensation Court Act 1984 were with certain modifications, adopted as the rules of the court.

The same procedure was adopted in modifying the rules in 1987 consequent on further amendments made to the principal Act.

Whilst I appreciate there is a commercial service available entitled "Workers Compensation, New South Wales" by Mr C.P. Mills, published by Butterworths, which includes what purport to be the current compensation court rules, these rules must only be an assumption on the publishers part as to what former rules "practically apply" unless your Committee or the court has given a direction to this effect.

I understand that the Registrar of your Court has informed a member of the Secretariat of my committee that you have been endeavouring for some time to effect a consolidated reprint of the rules in the Gazette but that the frequent changes made by the former Government to the compensation law and those foreshadowed by the present Government have prevented this.

Nevertheless I think it desirable that an official publication of the concise body of rules currently applicable be available for practitioners and the public alike. I would therefore request you as Chairman of the Rules Committee of the Court to arrange for the printing of the current rules in the Government Gazette.

Yours sincerely,

for Adrian Cruickshank 
Chairman,
Regulation Review Committee.



Chief Judges Chambers
Compensation Court
of N.S.W.
Sydney

27th September, 1988

Mr. Adrian Cruickshank,
Chairman,
Regulation Review Committee,
Parliament House,
Sydney, N.S.W. 2000

Dear Sir,

Your letter of 25th July 1988 arrived whilst I was on leave.

I have taken up the matters referred to with the Rule Committee of the Court.

It is the Committee's view, and my own, that the expense of a full print of consolidated Rules of Court would not be justified at present. Numerous Committees are sitting in Review on all aspects of Workers Compensation, including disputes Resolution Machinery.

The Rule Committee has considered a full redraft of the Rules in the light of the transfer of all original jurisdiction from the Court to Commissioners, excepting matters pending.

It is highly likely that a significant amount of original jurisdiction will be transferred back to the Court.

It is the view of the Committee that, pending final decision by the new Government, no new Rules should be promulgated.

The use of such terms as "so far as practicable" are perfectly clear to practising lawyers.

The Rules of Court have always had a similar provision to enable District Court Rules to apply in so far as practicable where the Rules may be silent.

The current Rules, as you observe, are freely available in the Mills Service. Copies of Rules can also be obtained from the Government Printer.

If major changes are again made, a further redraft of Rules will be needed before any useful consolidation can be made.

In the Committee's view, any consolidated reprint of the current Rules would be a waste of time and money.

When projected substantive changes are made, the Committee will proceed forthwith to redraft and promulgate a consolidated set of Rules.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'F.R. McGrath', with a small flourish at the end.

His Honour Judge F.R. McGrath, O.B.E.
Chief Judge.



PARLIAMENT HOUSE,

SYDNEY, N.S.W. 2000

The Hon. J.R. Dowd, M.P.,
 Attorney General
 Parliament House,
SYDNEY 2000.

8th August 1988

Dear Mr Dowd,

The Regulation Review Committee was established under the Regulation Review Act to review all statutory rules whilst they are subject to disallowance by Parliament. Statutory rules are defined in the Act to include regulations.

My Committee's attention has been drawn to a regulation recently made under the Justices Act 1902 amending the Justices (Warrants of Commitment) Regulation 1986 (Gazette dated 15.1.88 p. 205). This regulation prescribes the manner in which an authorised justice shall be notified by the Commissioner for Motor Transport to issue a warrant to commit a person to prison for non payment of a fine. My Committee considers that the regulation calls for elucidation in two respects.

The Committee is concerned, firstly, that in a matter involving the initiation of a process affecting the liberty of a person, provision is being made in a regulation for powers in relation to that process to be exercised by unnamed officials. The Committee would have thought, at the outset, that the regulation should specify an appropriately senior level of official in those cases where the Commissioner was unable to attend to the function.

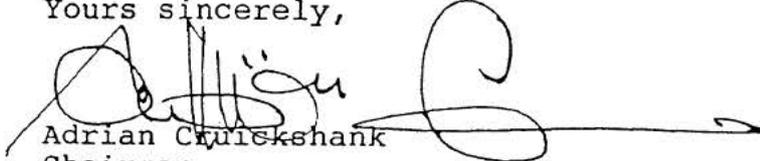
It is not clear to the Committee, in any event, why in such an important matter, especially having regard to the Government's intention, where possible, to use the other options of licence cancellation and community service orders, that the Commissioner would not be in a position to exercise the power personally when the need to do so arose.

Secondly, the regulation enables the Commissioner to notify any offence referred to in subsection 5(a) of section 87 of the Justices Act 1902. That section refers not only to offences under the Motor Traffic Act 1909 but also to offences under any prescribed provision of an Act or authorised instrument.

It would seem to the Committee inappropriate to vest in the Commissioner powers relating to Acts outside his jurisdiction. However this may not, of course, be your intention. My Committee therefore seeks clarification as to the offences that are, or will be, notifiable by the Commissioner under this provision.

The Committee intends to re-examine this matter prior to the 25 August, 1988 to determine whether any action in respect of the partial disallowance of this regulation is warranted. The Committee would, for that purpose, be grateful if your urgent attention could be given to the matters that I have raised.

Yours sincerely,



Adrian Cruickshank
Chairman,
Regulation Review Committee.



S Y D N E Y

21 SEP 1983

Mr A. Cruickshank
Chairman
Regulation Review Committee
Parliament House
SYDNEY

Dear Mr Cruickshank

I am writing in relation to the Report to the Parliament by the Regulation Review Committee which was tabled in the Legislative Assembly on 18 August last.

You will recall that on 8 August last, you wrote to me about the Justices (Warrants of Commitment) Regulation. A response to that letter was being prepared when it was learned that a Report on the Regulation, and on an amendment to the Local Courts (Civil Claims) Rules had been tabled.

The purpose of this letter is to respond to matters raised in the Report. I will deal first with the Justices (Warrants of Commitment) Regulation. This Regulation is part of the quite complex fine enforcement scheme which commenced in January, 1988. The subject Regulation must be read in conjunction with not only the statutory provision under which it is made (s. 87(5)(a) Justices Act) but also with almost identical counterpart provisions in s. 26A(3)(b) Community Service Orders Act and the Regulation made thereunder. The Motor Traffic (Penalty Defaults) Amendment Act, 1987 is the third major component of the fine default scheme.

As your Committee is aware, the default procedure is as follows -

- (a) issue of infringement notice or imposition of a fine by a court;
- (b) if unpaid - Police Department refers defaults to Department of Motor Transport (DMT) computer exchange; courts send written notices;
- (c) DMT attempts to match defaulter details with its records of licensed drivers and registered owners;
- (d) if DMT cannot match, defaults referred to courts - computer tape for infringement notices and written notices where default originated in courts;

- (e) court issues a community service order (CSO) or warrant. s. 28A(1) Community Service Orders Act provides CSO must be issued. Warrants issued where it is not legally possible to issue CSOs.

Having outlined the procedure, I will deal with the Committee's concerns.

- i) The Regulation confers an important power on 'unnamed officials' ('on behalf of the Commissioner') and a senior official should be nominated if the Commissioner is unable to deal with the matter personally.

Prior to the alteration of the fine default system which became effective on 1.1.88, approximately 280,000 warrants were issued annually for defaults on parking/traffic infringement notices. It is too early yet to determine the proportion of these matters which in future will be dealt with by cancellation action by DMT, but recent experience of the courts is that 70-80% of defaults are being returned for other enforcement action. If this proves to be the norm, the courts will receive tens of thousands of cases for enforcement action each year and some thousands of those will result in a commitment warrant being issued.

The Committee is of the view that the Commissioner for Motor Transport should personally provide the notification required under the Regulation, or another senior officer(s) should be nominated. The notification is essentially a procedural device to ensure the courts do not take other enforcement action until DMT has indicated licence/registration cancellation is not to be invoked. Given the volume of matters being processed and the automatic nature of the procedure, little would be achieved if the Regulation required the Commissioner personally, or other senior officers, to be involved, but that is an aspect more likely to be of interest to the Minister for Motor Transport.

In relation to the Committee's comments about the gravity of the consequences for defaulters of this notification, it should be noted that fine default sanctions are imposed automatically by court staff and warrants are automatically issued where it is impossible to issue a CSO (eg, where defaulters are known to reside in other States). Court staff are responsible for ensuring all legal requirements affecting enforcement action, of any kind, are complied with before issuing a warrant or CSO.

The word 'shall' in the Regulation must be read subject to the Community Service Orders Act, but if it causes the Committee concern, the word 'may' could be substituted to reflect the fact that the authorised Justice is responsible for subsequent action.

- ii) It is inappropriate for the Commissioner to have 'powers relating to Acts outside his normal jurisdiction'.

Section 87(5)(a) Justices Act provides that additional offences may be prescribed as falling within the class in respect of which warrants cannot issue unless the justice received a prescribed notice. Similar provision is made in the Community Service Orders Act.

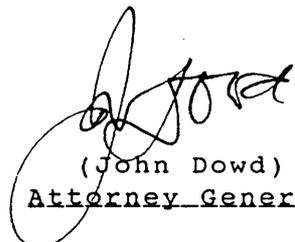
These provisions exist to facilitate the inclusion of new, relevant offences in the licence/registration cancellation scheme. No additional offences have yet been prescribed, but it is quite possible that when the licence cancellation scheme is fully operative parking and similar offences under legislation such as the National Parks and Wildlife Act could be included. A decision to prescribe such offences would be entirely consistent with fine enforcement policy and it is unclear why the Committee is concerned about a statutory provision in respect of which no Regulation has yet been made.

In summary, I acknowledge the Committee's concern to protect the rights and liberty of the citizen, but I feel the Regulation does not impinge on either when considered in the context of all the relevant provisions of the fine enforcement scheme. However, it would not affect the scheme and may allay your Committee's concerns if the word 'shall' is changed to 'may' in the Regulation. I will also seek the views of the Minister for Transport on whether the words 'or on behalf of' should be deleted.

In relation to Rule 38C(1)(c), I would point out that this Rule has been in existence since 1985 and it has not been challenged or been the subject of adverse comment. Parliamentary Counsel acknowledges that it could be argued the Rule is ultra viries but he is of the opinion that it is within the general Rule-making power.

A complete revision of the Rules is being finalised and when the new Rule commences, any doubts about the particular matter raised by the Committee will be resolved.

Yours sincerely



(John Dowd)
Attorney General

Whilst Rule 38C(1)(c) was originally inserted in the rules in 1983 and is not therefore subject to review the amendment to the lists of Courts in Rule 38C(2) is.

RECOMMENDATION

- (i) The Committee is of the opinion that the Attorney General should bring forward appropriate amendments to the Justices (Warrants of Commitment) Regulation 1986 to meet the concerns set out in this Report.
- (ii) The Committee recommends that the Attorney General should bring forward amendments to Rule 38C(1)(c) of the Local Courts (Civil Claims) Rules to bring it within the power conferred by section 84(1A)(h) of the Principal Act.

DATED: 17 August, 1988.

CHAIRMAN

REGULATION REVIEW COMMITTEE.

Extract from Regulation Review Committee's
Second Report To Parliament
17 August 1988



S Y D N E Y

21 SEP 1988

Mr A. Cruickshank
Chairman
Regulation Review Committee
Parliament House
SYDNEY

Dear Mr Cruickshank

I am writing in relation to the Report to the Parliament by the Regulation Review Committee which was tabled in the Legislative Assembly on 18 August last.

You will recall that on 8 August last, you wrote to me about the Justices (Warrants of Commitment) Regulation. A response to that letter was being prepared when it was learned that a Report on the Regulation, and on an amendment to the Local Courts (Civil Claims) Rules had been tabled.

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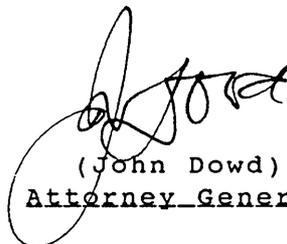
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In summary, I acknowledge the Committee's concern to protect the rights and liberty of the citizen, but I feel the Regulation does not impinge on either when considered in the context of all the relevant provisions of the fine enforcement scheme. However, it would not affect the scheme and may allay your Committee's concerns if the word 'shall' is changed to 'may' in the Regulation. I will also seek the views of the Minister for Transport on whether the words 'or on behalf of' should be deleted.

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A complete revision of the Rules is being finalised and when the new Rule commences, any doubts about the particular matter raised by the Committee will be resolved.

Yours sincerely



(John Dowd)
Attorney General



The Hon. D.A. Hay M.P.,
 Minister for Local Government and
 Minister for Planning,
 Parliament House,
 SYDNEY 2000.

PARLIAMENT HOUSE,
 SYDNEY, N.S.W. 2000

25 AUG 1988

Dear Mr Hay,

Regulation Review Committee

I am enclosing for your examination, a copy of the Second Report to Parliament on Regulations by the Regulation Review Committee. This Report examines and makes recommendations in relation to various regulatory instruments including:

- (i) Local Government Act 1919 - Ordinance amending Ordinance No. 46 published in Gazette No. 41 of 26 February, 1988.
- (ii) Local Government Act 1919 - Ordinance amending Ordinance No. 5 published in Gazette No. 52 of 11 March, 1988.

These instruments fall within your administration.

I wish to particularly draw your attention to the Committee's recommendation to Parliament that, for the reasons set out in the Report, an undertaking should be given that an amendment would be made to Ordinance No. 46 by deleting Clause 15A(2).

The Committee is of the view that failing such an undertaking, portion of the Ordinance should be disallowed. The last date for such action to be initiated in the Legislative Assembly would be 30 August, 1988 and I therefore seek your attitude on the matter prior to that date.

The Committee would also be grateful if you would arrange for the other issues raised by the Committee in relation to those Ordinances to be promptly examined.

Yours sincerely,

Adrian Cruickshank
 Chairman,
Regulation Review Committee.

30 August, 1988 ASSEMBLY 747

Pensioner Fares

The Petition of citizens of New South Wales respectfully sheweth:

That there is grave concern at the iniquitous burden being borne by pensioners following the recent increases in State transport charges. Pensioners have contributed much to the outstanding growth of the State of New South Wales, and should not be called upon to pay back the State's debt.

Your Petitioners therefore humbly pray:

That there should be an immediate return to the pensioner transport concessions that were in force on 13th March 1988, and that Parliament grant this request.

And Your Petitioners, as in duty bound, will ever pray.

Petitions, lodged by **Mr McManus** and **Mr Markham**, received.

Education Policies

The Petition of citizens of New South Wales respectfully sheweth:

That there is opposition to the proposed changes in education.

Your Petitioners therefore humbly pray:

That your honourable House will take all possible steps to prevent the increase in class sizes, the reduction in elective choices, the midstream changes to the higher school certificate examination; and the reduction in the quality of education.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Webster**, received.

Epileptics

The Petition of citizens of New South Wales respectfully sheweth:

That there is concern about the Anti-Discrimination Act's classification of epileptics as being intellectually impaired. The classification presently given infers there is some sort of mental deficiency in people with epilepsy.

Your Petitioners therefore humbly pray:

That your honourable House will take steps to classify all persons suffering an impairment in the one category of being impaired, therefore eliminating the need to be classified as either physically or intellectually impaired.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by **Mr Hatton**, received.

REGULATION REVIEW COMMITTEE

Local Government Act

Mr HAY: The second report to Parliament of the Regulation Review Committee recommended in part that a ministerial undertaking should be given that an amendment be made to ordinance No. 46 made pursuant to the Local Government Act 1919 by deleting clause 15A (2). The committee's report draws attention to a possible unforeseen consequence of the clause which relates to control of those substances used for joining drainage and sewerage pipes. The committee considers that this technical requirement, jointly developed by the Department of Public Works and the Department of Local Government, may give rise to a restrictive trade practice. This in turn would have an adverse effect on business. The amendment was gazetted on 26th February in the name of the former Minister for Local Government. In view of the committee's comments I am pleased to give the House an undertaking that the appropriate amendment will be brought forward in due course to delete the provision.



PARLIAMENT HOUSE.

SYDNEY, N.S.W. 2000

The Hon. J.R. Dowd LL.B. M.P.,
Attorney-General,
20th Level,
Goodsell Building,
Chifley Square,
SYDNEY 2000.

18 AUG:1988

Dear Mr Dowd,

I am writing concerning a regulation under the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Act 1987 gazetted on 31 December, 1987 (p. 7279).

Clause 4 of the regulation has the effect of making the Crimes Act 1900 continue to apply in relation to claims for compensation for loss for offences committed before 1 January, 1989 as if the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Act 1987 had not been enacted.

The Statute Law (Miscellaneous Provisions) Act 1988 amended Part VI of the Victims Compensation Act 1987 to make provision for claims for compensation for loss so that clause 4 of the regulation is now in conflict with the Victims Compensation Act.

As you know the Regulation Review Committee is empowered under section 9(1)(b) of its Act to draw the attention of Parliament to any regulation that "duplicates, overlaps or conflicts with any other regulation or Act".

I understand that consideration is being given to repeal or partial repeal of the abovementioned regulation. The Committee would appreciate your urgent advice as to the continued necessity for the regulation or any part of it.

Yours sincerely,

Adrian Cruickshank
Chairman,
Regulation Review Committee.



88/3688

- 4 NOV 1988

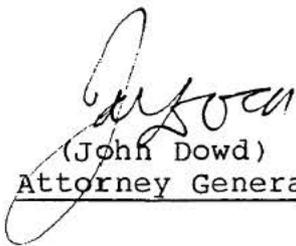
Mr. Adrian Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House,
SYDNEY, N.S.W., 2000 00.

Dear Mr. Cruickshank,

I refer to your letter dated 18th August, 1988 concerning an apparent conflict between provisions of the Victims Compensation Act as amended by the Statute Law (Miscellaneous Provisions) Act 1988 and clause 4 of the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Regulation 1987.

I wish to advise that steps have been taken to effect the repeal of clause 4 of the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Regulation 1987. Advice has now been received from the Parliamentary Counsel and draft regulations (copy attached hereunder) will shortly be referred to the Executive Council for approval and signature.

Yours faithfully,


(John Dowd)
Attorney General

**MISCELLANEOUS ACTS (VICTIMS COMPENSATION) REPEAL
AND AMENDMENT ACT 1987---REGULATION**

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Act 1987, has been pleased to make the Regulation set forth hereunder.

Attorney General.

The Miscellaneous Acts (Victims Compensation) Repeal and Amendment Regulation 1987 is amended by omitting clause 4.

EXPLANATORY NOTE

The object of this Regulation is to repeal clause 4 of the Miscellaneous Acts (Victims Compensation) Repeal and Amendment Regulation 1987. This clause has been rendered unnecessary by the amendments to the Victims Compensation Act 1987 made by Schedule 19 (3) and (4) of the Statute Law (Miscellaneous Provisions) Act 1988.



PARLIAMENT HOUSE,

SYDNEY, N.S.W. 2000

The Hon. B.G. Baird, M.P.,
 Minister for Transport,
 20th Level,
 Aetna House,
 Cnr. Elizabeth & Bathurst Streets,
SYDNEY 2000.

29 AUG 1988

Dear Mr Baird,

I refer to amendments to the Motor Traffic Regulations, 1935, that are made occasionally.

At the latest meeting of the Regulation Review Committee on 23 August 1988, a wide range of recently gazetted regulations, amending the Motor Traffic Regulations, were considered.

Among other things, the Committee noted that regulations are regularly made, which prohibit or restrict a certain activity on the part of motor vehicle drivers. For instance, Part 6, Division 4 of the Regulations deals with the use of motor vehicle lights. In the Government Gazette of 18 March 1988 (p. 1680), regulation 95 was amended at (6)(d)(ii), in order to restrict the use of motor vehicle hazard lights in certain circumstances.

The Committee understands that such a regulation would need to be enforced by members of the Police Force. In these situations, your advice is sought as to what consultation process is undertaken between the Department of Motor Transport and the NSW Police Force before regulations are made which require the Police to enforce their validity. Since a large section of the Motor Traffic Regulations require police co-operation it is appropriate to determine what consultation is carried out and what if any input the Police Department may have in changes that are made to these regulations.

Your advice on this matter would be appreciated.

Yours sincerely,

Adrian Cruickshank
 Chairman,
Regulation Review Committee.



Mr. A. Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House,
SYDNEY. N.S.W. 2000

18 OCT 1988

Dear Mr. Cruickshank,

I refer to the Committee's request for advice on the consultation process which takes place between the Police Department and the Department of Motor Transport when amendments to the Motor Traffic Regulations which will necessitate Police enforcement are proposed.

Recommendations for amendments to the Regulations are received from a variety of Government departments and authorities, such as the Traffic Authority (of which the Commissioner of Police is a member) and the Police Department itself. They also arise from decisions made by the Australian Transport Advisory Council. Without exception, effective liaison is developed between the relevant Administrations at an early stage, to ensure that appropriate procedures are in place prior to the proposed amendment taking effect. This is particularly the case with those matters which require enforcement.

The recent amendment mentioned in your letter concerning a relaxation of the former restrictions on the use of four-way flashing warning lights was the subject of considerable discussion between Police, Main Roads, Motor Transport and Traffic Authority personnel prior to its introduction. Further examples of the consultation which regularly takes place with Police (and all other interested parties) are the recent adjustment of traffic and parking infringement notice penalties, which involved an inter-Departmental working party comprising Police, Attorney General's, Motor Transport and Traffic Authority representatives, and the penalty default cancellation sanctions, which, in addition to the above participants, also included Corrective Services and Youth and Community Services officers in the committees convened to deal with this complex issue.

Additionally, the Department of Motor Transport has long-established administrative procedures permanently in place which ensure that once a proposed amendment has my approval, and the legality of the proposal has been confirmed by the Parliamentary Counsel, advice letters are despatched throughout the Department and to all Police Region Commanders and the NRMA. Furthermore, my own and the Department's public relations function arranges adequate media coverage of all major changes likely to affect the motoring public.



Ministry of Transport



Mr Adrian Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House.

Aetna Life Tower
Elizabeth Street
Sydney
and address all mail to
The Secretary
Box 1620, G.P.O., Sydney 2001

Our reference: 7-007 100

Your reference:

Telephone: 268 2800
Telex: AA73435

Dear Mr Cruickshank,

In the absence of the Minister, I am replying to your correspondence of the 27th September, 1988, in relation to heavy vehicle speed limits.

The decision to increase speed limits for heavy vehicles from 90 k.p.h. to 100 k.p.h. was taken at the Australian Transport Advisory Council (ATAC) meeting of December 1987. The new limit was to be a national speed limit and apply from 1 July, 1988. Although the move to 100 k.p.h. limit was endorsed by the road freight industry, it was not a response to representations from elements of the NSW industry.

The Federal Office of Road Safety provided a favourable evaluation of increasing the speed limit to 100 k.p.h. Safety was seen to be enhanced by having a common general speed of travel for both trucks and other vehicles. Primarily, this is because the removal of speed differentials removes the need for dangerous overtaking manoeuvres.

Additionally, the new edition Australian Design Rules provides standards for commercial vehicle braking performance. All new trucks and trailers conform to the standards and many older vehicles have been fitted with the equipment.

The introduction of the new limit was agreed to in NSW on the condition that the Police vigorously enforce the new limit. Also the heavy vehicle driver pays a fine that is 50% higher for speed offences than a similar offence in a private car. Additionally, the Traffic Authority will continue to monitor heavy vehicle speeds as part of the speed reduction campaign.

For the information of your committee I attach copies of relevant documents.

Yours sincerely,


J. Crowe,
for Secretary.

DOCUMENT NO: DA 87/24
ISSUED: NOVEMBER 1987

TRUCK SPEED LIMIT STUDY
(Submitted by the Federal Office of Road Safety)

INTRODUCTION

In June 1986 ATAC Ministers agreed that the rural truck speed limit should be increased to 90km/h from 1 January 1987, an increase of 10 km/h in most States. The Federal Office of Road Safety (FORS) was to monitor the impact of the higher speed limit, in conjunction with the States and Territories.

The study aimed to identify any safety disbenefits of the interim increase in the truck speed limit to 90km/h, noting the intended increase in the rural truck speed limit to 100 km/h.

APPROACH

A Road Safety Group Working Party agreed on the need for

- (1) speed surveys before and after the change to 90 km/h
- (2) analysis of crash data
- (3) information on any changes in industry practices relevant to the speed limit change
- (4) information on any changes in enforcement practices.

With the exception of the Northern Territory, 'free' speed* surveys were conducted in all States and the ACT between October and December 1986, before the speed limit change, and in March/April and October 1987. Two post-change surveys were required to measure both the persistence of any change in behaviour resulting from the speed limit increase, and to take account of any seasonal variations in travel which could effect mean speeds.

Truck crash data for the period 1981 to 1986 was used to

*Speeds of vehicles where the choice of speed is not being influenced by another vehicle, e.g. the lead vehicle in a platoon of group of vehicles.

establish any trends and seasonal variation in crashes in recent years, for comparison with 1987.

The Federal Office of Road Safety undertook a survey of 453 truck drivers and 90 operators in New South Wales, Victoria and Queensland in June and July 1987, to gather information on truck drivers' and operators' perceptions and attitudes to the driving conditions, driving practices and speed limits relating to heavy vehicles.

In the event, no jurisdiction was able to provide information in relation to enforcement practices.

A number of controls were included in the study to take account of changes attributable to factors other than the speed limit increase, e.g. Queensland (no speed limit change), cars and two-lane undivided roads. The latter controlled for the increase in the car speed limit to 110 km/h on rural freeways in Victoria from 1 June 1987.

Victorian officials have expressed reservations regarding the validity of speed measurements in Victoria using radar, on the basis that truck drivers were communicating the presence of the survey vehicle to other vehicles via CB radio. The concern is that the results obtained could underestimate true vehicle speeds in that State.

There is no reason from the survey results to assume that the underestimation is not consistent across the three surveys, and is therefore unlikely to have any bearing on the outcome.

RESULTS

1. Speed Surveys

Results of the three speed surveys are outlined in Tables 1.1 to 1.4 of the Attachment, for articulated vehicles and cars separately.

There has been no statistically significant change in mean speeds of articulated vehicles, standard deviation or proportions travelling greater than 100 or 110 km/h in any jurisdiction except NSW. In NSW the only change was in the proportion of articulated vehicles exceeding 100 km/h. Mean and standard deviation values were not statistically significantly different between surveys. However, this appears to be attributable to an increase in the number of articulated vehicles surveyed at the early morning (midnight to 4 am) sites when vehicles travel at higher speeds.

The intent of the increase in the truck speed limit was to reduce the difference between the speeds of cars and articulated vehicles. Figure 1.1 of the Attachment shows that there has been no statistically significant reduction in the mean of the differences, i.e. the difference is still

about 10 km/h.

2. Truck Crashes

Detailed comparisons for the period 1981 to 1986 for Victoria and Western Australia show a stable or decreasing trend in truck crashes, particularly in rural areas.

Although only limited truck crash data is available for 1987, comparison with earlier years (see Table 2.1 of the Attachment) indicates no change from the trend.

Therefore, no significant change in the incidence of truck crashes can be identified with the increased rural truck speed limit.

3. Attitude Survey

Fifty-two percent of drivers prefer to travel at 96-100 km/h, with about 15 per cent at 101-105km/h. These preferred travel speeds are largely supported by speed measurements taken on the routes the drivers were travelling on when interviewed. For example, mean free speed for the Hume Highway at Gundagai in NSW was measured at 99 km/h, while 61% of drivers interviewed claimed to travel at 96-100 km/h.

More than half of all drivers (59%) claim not to have increased their speed of travel since last year, nor did they perceive a need to do so. Furthermore, nine out of ten operators claim not to have altered their schedules.

DISCUSSION

The findings in relation to the speed surveys, the attitude survey and crash data consistently show that overall there has been no significant change associated with the increase in the rural truck speed limit. This applies to those locations where the limit changed from 80 to 90 km/h and on the Eyre Highway with a change from 90 to 100 km/h (see Table 1.5).

The survey results also show that, like car drivers, drivers of articulated vehicles vary their speeds according to survey site and time of day. There may be many reasons for their behaviour but the comments of the drivers in the attitude survey could well be pertinent. Safety was seen to be enhanced by having a common general speed of travel for both trucks and other vehicles.

At its 71st meeting on 27 June 1986, ATAC agreed that any subsequent increases in the speed limit for heavy vehicles beyond 90 km/h would be considered after the impact of the initial increase implemented on 1 January 1987 had been assessed. No disbenefits of the initial increase have been identified.

The August 1985 paper from the Federal Office of Road Safety which recommended removal of the difference between the truck and general traffic speed limits identified the likely consequences of an increase in the rural truck speed limit.

"In assessing the likely consequences of increasing heavy vehicle speed limits it should be borne in mind that the majority of heavy vehicles already disregard the differential speed limit, some of them by wide margins. A substantial and observed change in the speed of heavy vehicles, therefore, is not likely."

These comments have proven to be correct but, more importantly, are still applicable in gauging the likely consequences of implementing a 100 km/h rural speed limit for trucks, with 110 km/h on the Eyre Highway.

CONCLUSION

No safety disbenefits from the interim increase in the truck speed limit to 90 km/h have been identified. Clearly, trucks had already been exceeding the limits applying to them, and truck drivers' stated preference for travel at the same speed as other traffic is supported by their behaviour. The available crash data does not indicate any direct impact of the speed limit increase on the number of crashes involving trucks.

Mr P. Zammit, M.P.,
Chairman of the Joint Standing
Committees Upon Road Safety,
Parliament House,
SYDNEY 2000.

27 SEP 1988

Dear Mr Zammit,

At a recent meeting of the Regulation Review Committee on 20 September 1988, amendments to the Motor Traffic Regulations 1935 were examined.

In particular, the Committee considered a recent regulation affecting the speed limit that applies to motor lorries. As you may be aware, a motor lorry is defined as any "motor vehicle which is constructed principally for the conveyance of goods or merchandise or for the conveyance of any kind of materials used in any trade, business or industry (section 2(1)).

I am advised that the decision to increase the allowable speed limit from 90 km/h to 100 km/h for these vehicles was made following a series of representations to the Minister for Transport, the Hon. B. Baird, from various transport and truck driver groups.

The Committee is concerned that the decision to increase the speed limit for these vehicles was made without due consideration of the road safety implications. Consequently, the Committee has asked me to ascertain whether the Road Safety Committee is intending to investigate this issue and to seek your advice as to the effects to road safety that such an increase might have.

Your attention to this matter would be appreciated.

Yours sincerely,



Adrian Cruickshank
Chairman,
Regulation Review Committee.



staysafe

Joint Standing Committee on Road Safety

Parliament House, Macquarie St, Sydney. 2000
Telephone: (02) 230 2333
Fax: (02) 235 2653
Telex: 71 429

5 October, 1988

Mr. A. Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House,
Macquarie Street,
SYDNEY. 2000

Dear Mr. Cruickshank,

Thank you for your letter of 27 September, 1988 concerning amendments to the Motor Traffic Regulations.

The question of speed limits for heavy vehicles is of grave concern to the STAYSAFE Committee and reference is made to that in STAYSAFE 8, of June 1986. I have enclosed a copy of page 40 of that report headed "Heavy Trucks on Country Roads". I draw your attention to paragraph 3.6.3 which states "from its preliminary investigation of truck speeds and overtaking the Committee has become concerned about the implications. The Committee is seeking more information on these matters, before it draws conclusions".

Following advertising the Committee received large numbers of submissions dealing with heavy vehicle safety and particularly relating to speed. The Committee has not yet fully investigated these matters.

The Committee is currently investigating bicyclist safety, driver education, driver attitude, driver licencing and an urgent inquiry into bribery and corruption in the obtaining of drivers' licences in New South Wales. These inquiries will tie up the Committee until early 1989.

The Committee then intends investigating the matter of heavy vehicle safety using the information submitted. I am not able to give you an indication of exactly when that will occur other than to inform you that I will raise the matter with the Committee at its next meeting and will advise you immediately of the Committee's decision.

Yours sincerely,

Paul Zammit, M.P.,
Chairman,
STAYSAFE, Standing Committee
on Road Safety.

3.6 HEAVY TRUCKS ON COUNTRY ROADS

3.6.1 Since commencing the inspection of rural crash sites involving heavy trucks, and discussing truck traffic with people in Goulburn, Yass, Gunning and Gundagai, the Committee has reached the conclusion that truck speeds should be investigated as part of the general problems of speed and overtaking.

3.6.2 Some of the matters put to us include:

- (i) Truck speeds on the Hume Highway are higher at night than in daytime, often up to 130 km/h compared with the 80 km/h legal limit for trucks and 100 km/h for cars outside the towns.
- (ii) Truck speeds at night through the towns mentioned are over 80 km/h.
- (iii) Trucks illegally travel in convoys of 12 or 15, only 3 or 4 metres apart, compared with the legal minimum of 60 metres.
- (iv) Heavy trucks overtake cars that are travelling at 100 km/h.
- (v) Convoys of trucks travelling uphill cannot safely be overtaken, because of convoying.

3.6.3 From its preliminary investigation of truck speeds and overtaking the Committee has become concerned about the implications. The Committee is seeking more information on these matters, before it draws conclusions.



The Hon. J.J. Fahey,
Minister for Industrial Relations
and Employment,
3rd floor,
1 Oxford Street,
DARLINGHURST 2010.

PARLIAMENT HOUSE,

SYDNEY, N.S.W. 2000

25 JUL 1988

Dear Mr Fahey,

The Regulation Review Committee was established under the Regulation Review Act 1987 to review all statutory rules whilst they are subject to disallowance by Parliament.

Statutory rules are defined in the Act to include regulations. My Committee's attention has been drawn to the regulations recently made under the Factories Shops and Industries Act 1962 amending the Shops Registration and Opening and Closing Hours Regulations.

The Regulations were published in the Government Gazette of 6 and 13 November, 1987 respectively. They relate to the extension of the normal closing time of certain shops. The first provided that on 10 November, 1987 Westfield Shopping Town at Chatswood would have a midnight closing time. The second, that gazetted on 13 November, 1987 pertains to the closing time for general shops in the town of Young on Friday, 13 November, 1987.

Whilst these specific regulations have been repealed by other regulations of a similar nature, our Committee is concerned to know whether prior to granting such concessions to particular shops the effect of the extended opening hours on other shops in their area is assessed by your Department and if so what assessment procedures apply.

I would welcome your early advice.

Yours sincerely,

for Adrian Cruickshank
Chairman
Regulation Review Committee



MINISTER FOR INDUSTRIAL RELATIONS
MINISTER FOR EMPLOYMENT
MINISTER ASSISTING THE PREMIER

3rd Level,
1 Oxford Street,
DARLINGHURST. N.S.W. 2010.

M88/507

Mr. A. J. Cruickshank, M.P.,
Chairman,
Regulation Review Committee,
Parliament House,
SYDNEY N.S.W. 2000 00.

21 SEP 1988

Dear Mr. Cruickshank,

I refer again to your letter concerning certain recent amendments to the Shops (Registration and Opening and Closing Hours) Regulations under the Factories, Shops and Industries Act 1962.

The specific regulations which you mention were, of course, made during the term of office of my predecessor and arose from direct requests for extended trading hours. Apart from being aware of the circumstances which prompted each of the requests, I have no knowledge of the reasons which influenced the former Minister's decision to approve the making of the regulations.

I understand that the regulation relating to 10 November, 1987, which had the effect of altering the closing time for shops registered in the General class, located in Westfield Shoppingtown at Chatswood, from 6.00 pm to 12.00 midnight coincided with the complex's opening celebrations on that date.

Furthermore, I am informed that the regulation which extended the closing time of General class shops in Young from 9.00 pm to 12.00 midnight on 13 November, 1987 was in connection with an annual festival held in the town at that time of the year.

On the question of assessing the impact upon other shopkeepers of one-off regulations, I am able to inform you that the approach that I would normally adopt, when considering any request for extended trading hours requiring a special regulation, would be to invite comments from the appropriate retailers' organisations and the unions covering retail sector employees before deciding whether to grant the request.

Yours faithfully,

A handwritten signature in black ink, appearing to read "John Fahey".

JOHN FAHEY,
Minister for Industrial Relations and Employment
Minister Assisting the Premier.