



**Regulation Review Committee
Parliament of New South Wales**

**Report on the Scrutiny of
National Schemes of Legislation
and the
Meeting of the Working Group of Chairs and
Deputy Chairs of Australian Scrutiny of
Primary and Delegated Legislation Committees**

**Parliament House Melbourne
Friday 10 November 2000**

**Report No 14/52
November 2000**

This report was compiled using Microsoft Word 97
and printed by Parliamentary Printing Services

*Copies of this report have been distributed to all
legal deposit libraries in Australia*

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Regulation Review Committee.

Report on the Scrutiny of National Schemes of Legislation, and the Meeting of the Working Group of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees, Melbourne, Friday 10 November 2000 / Regulation Review Committee, Parliament of New South Wales. [Sydney, N.S.W.] :The Committee, 2000. – 42 p. ; 30 cm. (Report no. 14/52, November 2000)

Chair: Peter Nagle.

ISBN 0731022793

1. Victoria. Parliament. Scrutiny of National Schemes of Legislation Bill 2000
2. Working Group of Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees. Meeting (2000 : Melbourne, Vic.)
3. Legislation—Australia.
 - I. Title
 - II. Nagle, Peter.
 - III. Series: New South Wales. Parliament. Regulation Review Committee. Report ; 52/14

328.370994 (DDC21)

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Dr Liz. Kernohan MP
Mr Gerard Martin MP
Ms Marianne Saliba MP
Mr Russell Turner MP



Mr Peter Nagle MP
Chairman



Hon Janelle Saffin MLC
Vice-Chairman

Legislative Council

Hon Janelle Saffin MLC, Vice Chairman
Hon Don Harwin MLC
Hon Malcolm Jones MLC



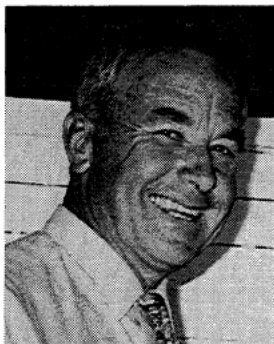
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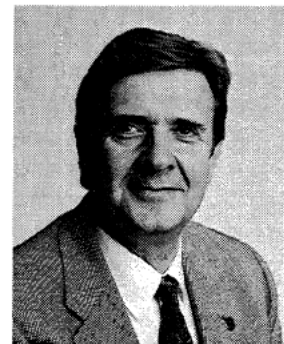
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Hon Don Harwin MLC



Hon Malcolm Jones MLC

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Mr Jim Jefferis, Committee Manager
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Mr Don Beattie, Clerk to the Committee
Ms Susannah Dale, Assistant Committee Officer

Functions of Regulation Review Committee

The Regulation Review Committee was established under the *Regulation Review Act 1987*. A principal function of the Committee 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;
- (g) that the form or intention of the regulation calls for elucidation; or 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.

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, including reports setting out its opinion that a regulation ought to be disallowed.

Chairman's Foreword

On Friday 10 November 2000 I chaired a meeting of the Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees at Parliament House in Melbourne.

The purpose of that meeting was to consider the terms of a draft national agreement and model Bill prepared by the Victorian Scrutiny of Acts and Regulations Committee with the intention of establishing a National Committee to scrutinise national scheme legislation.

National Scheme Legislation (NSL) is where Ministers of respective State and National Parliaments get together and agree upon a course of action. They then take that policy decision and bring it into legislation.

The National Scheme Legislation is prepared and is passed by:

- a) each Parliament; or
- b) one particular Parliament, and agreed upon and eventually legislated within other Parliaments;
- c) if the legislation is accepted in one Parliament and is automatically adopted in each other Parliament.

Often this legislation does not come before the Parliament in its full context and therefore Members do not see the Bill but only a synopsis or summary of the Bill. It is enacted by way of one piece of legislation which says that the entire Bill as enacted in (say for example) the State of South Australia, is to be adopted in its entirety as template legislation. In my opinion NSL sets a most dangerous precedent to restrict scrutiny, transparency and accountability of the Executive and bureaucracy.

NSL does not allow effective scrutiny of the legislation as agreed by the various Government Ministers. In fact it really is an agreement by the Ministers which ensures its passage through their respective Legislatures.

If NSL is paramount then you do not need Parliaments any more. One just has to get the Ministers at the executive level agreeing amongst themselves to legislate and then adopting that piece of legislation into another jurisdiction.

This is a real challenge in the 21st Century for Scrutiny of Legislation and Regulation Review Committees throughout Australia.

Over the last 10 to 15 years National Scheme Legislation is principally being used, in my opinion, as an unintentional abuse of power. What does it mean? It means by-passing Parliament.

It also means that in by-passing Parliament you do not get transparency and accountability of the legislative structures.

In order for New South Wales to participate in the National Scrutiny Committee, it will be necessary to extend the functions of the Regulation Review Committee to include the scrutiny of bills, or at the very least the scrutiny of National Scheme Bills.

The Bill will again be debated at the Chairs and Deputy Chairs' meeting in Hobart on Monday, 5 February, 2001

A handwritten signature in black ink, appearing to read 'Peter R. Nagle', with a long horizontal flourish extending to the right.

Peter R. Nagle MP
Chairman

Scrutiny of National Schemes of Legislation

Since 1991 the need for effective scrutiny of national scheme legislation has been debated by Australian Scrutiny Committees. In 1996 the Committees tabled a Position Paper which set out options for achieving effective parliamentary scrutiny of this legislation, including the establishment of a National Committee comprised of the representatives of the Commonwealth and each State and Territory Scrutiny Committee.

A draft national agreement and model Bill has now been prepared by the Victorian Scrutiny of Acts and Regulations Committee with the intention of establishing a National Committee to scrutinise the legislation.

On Friday 10 November 2000 the meeting of the Chairs and Deputy Chairs of Australian Scrutiny of Primary and Delegated Legislation Committees met at Parliament House in Melbourne to consider the Bill and other relevant issues.

The meeting was attended by the following delegates:

SOUTH AUSTRALIA Legislative Review Committee

Hon R.R. Roberts MLC
Mr Peter Blencowe, Committee Secretary
Ms Andrea Wilson, Personal Assistant

QUEENSLAND Scrutiny of Legislation Committee

Mrs Linda Lavarch MLA , Chair
Mr Tony Elliott MLA, Deputy Chair
Mr Chris Garvey, Research Director

WESTERN AUSTRALIA Joint Standing Committee on Delegated Legislation

Hon. Bob Wiese MLA, Chair
Mr Norm Marlborough MLA
Mr Nigel Pratt, Advisory Officer

COMMONWEALTH
Standing Committee on Regulations and Ordinances

Ms Janice Paull, Research Officer

COMMONWEALTH
Standing Committee for the Scrutiny of Bills

Senator Barney Cooney, Chair
Mr James Warmenhoven, Secretary

NORTHERN TERRITORY
Subordinate Legislation and Publications Committee

Mr Terry Hanley, Secretary

AUSTRALIAN CAPITAL TERRITORY
Standing Committee on Justice and Community Safety

Mr John Hargreaves MLA – Deputy Chair
Mr Peter Bayne, Legal Adviser
Mr Mark McRae, Acting Secretary

NEW SOUTH WALES
Regulation Review Committee

Mr Peter R. Nagle MP – Chair
Ms Marianne Saliba MP
Hon. Malcolm Jones MLC
Mr Greg Hogg, Project Officer

TASMANIA
Standing Committee on Subordinate Legislation

Hon John Loone MLC – Chair
Hon Geoff Squibb MLC – Deputy Chair
Ms Wendy Peddle, Secretary

VICTORIA
Scrutiny of Acts and Regulations Committee

Ms Mary Gillett MLA – Chair
Hon Maree Luckins MLC – Deputy Chair
Ms Liz Beattie MLA
Hon. Jenny Mikakos MLC
Mr Peter Ryan MLA
Hon. Chris Strong MLC
Mr Andrew Homer, Senior Legal Adviser
Ms Jenny Baker, Legal Adviser
Mr Simon Dinsbergs, Assistant Executive Officer
Mr Richard Kings, Office Manager

The program for the meeting is set out in Appendix 1 to this report and the Bill is set out in Appendix 2. The clauses of the Bill amended in the debate at the meeting are underlined.

As debate on the Bill took up most of the available time, consideration of the Chairman's paper entitled "The Impact of National Scheme Legislation on Regulations, Regulatory Reform and Management", which is set out in Appendix 3, was adjourned to the next meeting.

In order for the New South Wales to participate in the National Committee it will be necessary to extend the functions of the Regulation Review Committee to include the scrutiny of bills, or at the very least the scrutiny of National Scheme Bills.

The Bill will again be debated at the Chairs and Deputy Chairs' meeting in Hobart on Monday, 5 February, 2001.

Appendix 1

PROGRAM OF THE MEETING OF THE WORKING
GROUP OF CHAIRS AND DEPUTY CHAIRS
OF
AUSTRALIAN SCRUTINY OF PRIMARY AND
DELEGATED LEGISLATION COMMITTEES

MELBOURNE - FRIDAY 10 NOVEMBER 2000



**MEETING OF WORKING GROUP OF CHAIRS AND
DEPUTY CHAIRS**

OF

**AUSTRALIAN SCRUTINY OF PRIMARY AND
DELEGATED LEGISLATION COMMITTEES**

MELBOURNE - FRIDAY 10 NOVEMBER 2000

PROGRAM

**Legislative Council Chamber
Parliament House, Melbourne**

PROGRAM

FRIDAY 10 NOVEMBER 2000

Legislative Council Chamber

- 9:00 - 9:30 am **Registration and Tea/Coffee**
Queen's Hall, Parliament House
- 9:30 am **Welcome**
Hon. Barry Bishop MLC
Deputy President of the Legislative Council
- 9:40 am Apologies
Minutes of previous meeting
The establishment of a Scrutiny of National
Schemes of Legislation Committee:
- *Mr Peter Ryan MLA – Introduction*
 - *Victoria to present a draft Bill for the establishment of a National Committee
Discussion led by Ms. Mary Gillett MLA,
Chair of the Victorian Committee*
 - *Open discussion and consideration of proposal/Refinement and modification of proposal.*
- 10:45 am **Morning Tea**
Queen's Hall, Parliament House
- 11:15 am The Impact of National Scheme Legislation on
Regulations, Regulatory Reform and Management
Peter R. Nagle MP
NSW Regulation Review Committee
Debate/discussion resumed
- 12:15 - 1:45 pm **Lunch**
Strangers Corridor,
Parliamentary Dining Room.

1:45 – 3:00 pm

Reviewable Legislative Instruments –
How do we prevent Parliamentary scrutiny bypass?

- *Tasmania to lead agenda item*
- *The Victorian inquiry into the Subordinate Legislation Act*
- *The Commonwealth's Legislative Instruments Bill 1996 [No.2]*

3:00 – 3:30pm

Afternoon Tea

Queen's Hall, Parliament House

3:30 pm

- Reports from other Chairs
- Possible refinement to the list of NSL
- Resolutions
- Venue and date of next meeting

4:45 – 5:00 pm

Farewell Drinks

Appendix 2

A BILL

**to provide for the scrutiny of national schemes of legislation
and for other purposes.**

Scrutiny of National Schemes of Legislation Act 2000

A BILL

to provide for the scrutiny of national schemes of legislation and for other purposes.

Scrutiny of National Schemes of Legislation Act 2000

The Parliament of Victoria therefore enacts as follows –

PART 1—PRELIMINARY

1. *Purposes*

The purposes of the Act are—

- (a) to record the State's intention to give effect to the Agreement on the Scrutiny of National Schemes of Legislation;
- (b) to provide for the appointment of the Victorian members of the Scrutiny of National Schemes of Legislation Committee;
- (c) to enable reports of the Scrutiny of National Schemes of Legislation Committee to be tabled in Parliament.

2. *Commencement*

- (1) Sections 1, 2 and 3 come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions come into operation on a day or days to be proclaimed.¹
- (3) If a provision referred to in sub-section (3) does not come into operation before [date], it comes into operation on that day.

3. *Definitions*

In this Act –

National Scheme Legislation means all forms of legislation developed pursuant to or arising out of an any intergovernmental agreement which is –

(a) uniform or substantially uniform in application, and

(b) enacted or proposed to be enacted in each of the jurisdictions of the States Territories and or the Commonwealth.

National Scrutiny Committee means the Scrutiny of National Schemes of Legislation Committee established under the Agreement.

Presiding Officers means the President of the Legislative Council and the Speaker of the Legislative Assembly.

uniform bill means a bill that gives legislative effect to national scheme legislation.

Scrutiny Committee means the Scrutiny of Acts and Regulations Committee established under section 4 of **the Parliamentary Committees Act 1968**.

PART 2—INTERGOVERNMENTAL AGREEMENT

4. *Intergovernmental Agreement*

- (1) A copy of the Scrutiny of National Schemes of Legislation Intergovernmental Agreement is set out in the Schedule.
- (2) It is the intention of the State to comply with, and give effect to, the Intergovernmental Agreement.

PART 3—VICTORIAN MEMBERSHIP OF THE NATIONAL SCRUTINY COMMITTEE

5. *Appointment of Victorian members*

- (1) In accordance with the clause 3 of the Intergovernmental Agreement 2 members of the National Scrutiny Committee must be appointed as follows—
 - (a) the Premier must appoint one member of the Victorian Scrutiny Committee; and
 - (b) the Leader of the Opposition must appoint one member of the Victorian Scrutiny Committee; and
 - (c) the Premier must appoint one member of the Victorian Scrutiny Committee as an alternate member; and
 - (d) the Leader of the Opposition must appoint one member of the Victorian Scrutiny Committee as an alternate member.
- (2) An alternate member appointed by the Premier may only serve on the National Scrutiny Committee in the absence of the other member appointed by the Premier.
- (3) An alternate member appointed by the Leader of the Opposition may only serve on the National Scrutiny Committee in the absence of the other member appointed by the Leader of the Opposition.

6. *Termination or revocation of appointment*

- (1) A person ceases to be a member or alternate member of the National Scrutiny Committee if—
 - (a) the person's seat as a member of the Council or the Assembly becomes vacant under the **Constitution Act 1975**; or
 - (b) the person resigns from the Committee by notice in writing to the Premier or the Leader of the Opposition, as the case may be.
- (2) If a person appointed under section 5 ceases to be a member or alternate member of the National Scrutiny Committee, the vacancy on the Committee must be filled in accordance with section 5(1).

PART 4—INTRODUCTION OF UNIFORM BILLS

7. *Certification of uniform bills*

- (1) Before a bill is introduced into either the Council or the Assembly, the member of the Council or the Assembly who brings in the bill must state whether the Bill is or is not a uniform Bill for the purposes of the Act.
- (2) A certificate under sub-section (1) must —
 - (a) state the reason why the bill is or is not a uniform bill; and
 - (b) include an explanation of the purpose and intended operation of each clause of the bill; and
 - (c) be tabled/lodged with/given to the Clerk of Parliaments when the Bill is first introduced.

8. *Consideration of uniform bill*

A uniform bill may not be considered by the Parliament for 28 calendar days after a Bill is read for a second time (introduced into Parliament) etc.²

9. *Clerk to advise the National Scrutiny Committee*

On the day after a uniform Bill is introduced the Clerk of the Parliament must transmit to the National Scrutiny Committee —

- (a) the bill; and
- (b) the certificate stating that the bill is a uniform bill; and
- (c) a copy of the second reading speech relating to the uniform bill; and
- (d) any other relevant material.

10. *Tabling of report*

- (1) A report published by the National Scrutiny Committee in accordance with the Intergovernmental Agreement must be tabled in the Council and the Assembly as soon as practicable after the adoption of the report by the Committee.
- (2) If a House of the Parliament is not sitting at the time a report referred to in sub-section (1) is to be tabled, the report may be tabled by delivery of the report to the Presiding Officers of the Parliament.

11. Immunity from judicial review³

The proceedings of the National Scrutiny Committee or any recommendation, report made or any document published by the National Scrutiny Committee shall not give rise to any cause of action in law or be made the subject of, or in any way be called into question in, any proceedings before a court.

12. Privileges and powers of members⁴

Any member or alternate member serving on the National Scrutiny Committee shall hold, enjoy and exercise such privileges, immunities and powers as if that member was a member of a Committee established under the *Parliamentary Committees Act 1968*.

PART 5—CONSEQUENTIAL AMENDMENT

13. Consequential amendment to the *Parliamentary Committees Act 1968*

In section 4D of the **Parliamentary Committees Act 1968** after paragraph (d) insert—

- (2) Despite sub-section (1)(a), the Scrutiny of Acts and Regulations Committee may not consider a uniform bill and report to the Parliament on that bill if the National Scrutiny Committee in accordance with the Intergovernmental Agreement within in the meaning of the ***Act 200* authorises the publication of a report on the bill.
- (3) Despite sub-section (2), the Scrutiny of Acts and Regulations Committee must make a report to the Parliament under sub-section (1)(b) if the uniform bill raises an issue as to the jurisdiction of the Supreme Court of Victoria.
- (4) Despite sub-section (2), the Scrutiny of Acts and Regulations Committee must make a report to the Parliament under sub-section (1)(iia) if the uniform bill raises an issue whether such a bill unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *Information Privacy Act 2000*.⁵

SCHEDULE ONE

Agreement

AN AGREEMENT (to be called the "Scrutiny of National Schemes of Legislation Agreement") made this first day of April two thousand and one BETWEEN THE COMMONWEALTH OF AUSTRALIA of the first part, THE STATE OF NEW SOUTH WALES of the second part and THE STATE OF VICTORIA of the third part, THE STATE OF QUEENSLAND of the third part, THE STATE OF WESTERN AUSTRALIA of the fourth part, THE STATE OF SOUTH AUSTRALIA, of the fifth part, THE STATE OF TASMANIA, of the sixth part, THE AUSTRALIAN CAPITAL TERRITORY, of the seventh part, and THE NORTHERN TERRITORY, of the eighth part (the participating Parliaments).

WHEREAS the participating Parliaments have agreed that a Scrutiny of National Schemes of Legislation Committee should be established for the better scrutiny of legislation introduced into a Parliament;

AND WHEREAS the participating Parliaments recognise -

that under this agreement the role of the Committee will be to scrutinise legislation introduced into any Australian Parliament which has arisen from an intergovernmental agreement.

AND ALSO MINDFUL that the Committee's role will not be to make any comment on the policy aspects of such legislation but rather to report to the Parliaments within the agreed terms of reference established by the agreement.

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:

1. Establishment of Committee

There is established a committee for the scrutiny of national schemes of legislation to be known as the *Scrutiny of National Schemes of Legislation Committee (SNSLC)*.

2. Definitions

In this schedule -

Committee means the Scrutiny of National Schemes of Legislation Committee "SNSLC".

Parliament means the Parliaments of the Commonwealth of Australia, and of the respective States and Territories of Australia.

"National Scheme Legislation" means all forms of legislation developed pursuant to
or
arising out of an any intergovernmental agreement which is –
(a) uniform or substantially uniform in application, and
(b) enacted or proposed to be enacted in each of the jurisdictions of the
States Territories and or the Commonwealth.

responsible Minister means the Minister introducing a uniform Bill into a House of Parliament.

Secretariat means the office or staff providing administrative support to the "SNSLC".

terms of reference means the terms of reference of the SNSLC in section 11.

uniform bill means a bill that gives legislative effect to national scheme legislation.

3. Composition of SNSLC

The SNSLC shall consist of –

(1) Two members and two alternate members appointed according to the practices and procedures of each of the Parliaments to this agreement.

(2) Notwithstanding sub-section (1) only one member and one alternative member may be appointed from the government parties represented in a Parliament.

(3) An alternate Member may only act in the place of a member in the absence of the relevant member for any reason;

(5) The Members of the Committee shall elect a Chair and a Deputy Chair who shall hold office for 2 years;

(6) The Deputy Chair shall serve as the Chair of the Committee in the absence of the Chair;

(7) In the absence of the Chair and Deputy Chair the Members of the Committee the Members may elect a Chair pro temp;

(8) The Chair of the Committee, the Deputy Chair or the Chair pro temp shall have a deliberative vote only.

4. Quorum

(1) A quorum of the Committee shall be 10 Members but no quorum shall comprise of less than at least one representative from at least 6 of the 9 Parliaments.

(2) This section also applies to meetings held pursuant to section 7(2).

5. Secretariat to prepare report

- (1) On receipt of advice from a participating Parliament introducing a uniform bill the Chair shall prepare a draft report in accordance with the terms of reference of the Committee.
- (2) The Chair shall as soon as practicable convene a meeting of the Committee to consider the draft report.
- (3) The Chair shall cause to be convened a meeting pursuant to section 7.

6. Committee to consider report

- (1) The Committee may consider the Chair's draft report and may authorise the Chair to publish a report concerning the Committee's scrutiny of the Bill in accordance with the terms of reference.
- (2) A member or members of the Committee may require the Committee to publish with the report a separate dissenting opinion.
- (3) On a request made under sub-section (2) the Chair shall cause to be published such dissenting opinion with the report.

7. Proceedings of Committee

- (1) The Committee may make rules for the conduct of its meetings that are not inconsistent with this Act and may regulate its own proceedings.
- (2) The Committee may permit members to participate in a particular meeting, or all meetings, by telephone, closed circuit television or other means of communication.

8. Terms of reference

The functions of the SNSLC are to consider any Bill introduced into a House of Parliament and to report to the respective Parliaments of Australia as to whether the Bill by express words or otherwise –

- (a) trespasses unduly upon rights or freedoms/liberties;
- (b) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
- (c) makes rights, freedoms or obligations unduly dependent upon non-reviewable administrative decisions;
- (d) inappropriately delegates legislative power; or
- (e) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

9. Administrative arrangements

The Committee may make such administrative and staffing agreements with the consent of a Parliamentary committee or government department or agency of a participating Parliament as appear proper or necessary to establish and maintain a Secretariat.

10. Parliamentary privileges

In the exercise of any function under this Agreement it is intended that each member of the National Committee shall enjoy all rights, privileges, powers and immunities as they would enjoy as members of the Parliament appointing the Member.

11. Immunity from judicial review

The parties to this agree intend that the proceedings of the National Scrutiny Committee or any recommendation, report made or any document published by the National Scrutiny Committee shall not give rise to any cause of action in law or be made the subject of, or in any way be called into question in, any proceedings before a court.

Appendix 3

**Paper prepared for the meeting of the Chairs and Deputy Chairs of
Australian Scrutiny of Primary and Delegated Legislation Committees at
Parliament House in Melbourne**

**The Impact of National Scheme Legislation on Regulations,
Regulatory Reform and Management**

Peter R. Nagle MP

The Impact of National Scheme Legislation on Regulations, Regulatory Reform and Management

Peter R. Nagle MP

In this paper I want to bring together a few threads from our last two conferences.

At our meeting in February, Greg Hogg outlined a case study on National Scheme Legislation involving the Australian Road Rules.

You may recall that the Australian Road Rules cover the basic requirements that drivers, motorcyclists, cyclists and pedestrians need to follow in using the road system. They were approved by the Australian Transport Council, the ATC which comprises Australia's nine Transport and Roads Ministers, they were published by the National Road Transport Commission, the NRTC of which I will say more later and were incorporated by reference into the law of New South Wales by the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999.

In our case study we tabled the submission by our Chief Magistrate on the rules which expressed concerns about their effect on the discretion of the court, about the complexity of the legislation and about magistrates handling of disqualifications or suspensions of licences.

To bring you up to date , the Committee had two days of hearings in Orange on 15 and 16 May to get a view of the operation of the regulation in country areas and a further hearing in Parliament House on 23 June 2000. A further hearing is scheduled for later this month.

As the matter is still ongoing and we haven't yet reported to Parliament, I can't say too much about the evidence but the Roads

and Traffic Authority has told us that the Attorney General had set up the "Nagle Inquiry" to address the Chief Magistrate's concerns.

The Police are concerned that instead of the one Traffic Act and the three regulations they had previously, they now have the Australian Road Rules, eight Acts and fourteen Regulations to interpret and have a great deal of difficulty in finding let alone understanding them. So much for National Scheme Legislation simplifying matters!

They said that one of the problems was that New South Wales had adopted the Australian Road Rules by reference while the other States had incorporated the text of the rules into their own Regulations. The result of our using this method of adoption was that none of the law was cross-referenced in New South Wales and we are told that lawyers are ringing the police to find out the related provisions on a particular subject matter.

I would like to seek confirmation from each of the delegations here as to how your jurisdiction incorporated the Road Rules into its legislation and whether similar problems have arisen.

I'd like now to consider a simple plain English question, one many motorists and their lawyers are asking and probably some of you are asking yourselves at this moment, "What are the Australian Road Rules?"

The same simple question is put by clause 5 of the New South Wales regulation, but look at the answer, and in particular the helpful note on the latest electronic version:

"5 What are the Australian Road Rules

In this Regulation, the Australian Road Rules means that part of the publication known as the Australian Road Rules, ISBN 0 7240 8874 1, published by the National Road Transport Commission on 19 October 1999 that comprises the road rules approved by the Australian Transport Council under the National Road Transport Commission Act 1991 of the Commonwealth on 29 January 1999 (together with the amendments to those rules approved by the Council on 30 June 1999 and 11 October 1999).

Note. *Copies of the Australian Road Rules, as published by the National Road Transport Commission, are available from the New South Wales Government Information Service.*

The latest version of the Rules is also available in electronic form on the Commission's Internet site at <http://www.nrtc.gov.au/>. However, care should be taken in consulting the latest electronic version on that site because its

provisions may differ from the version of the Australian Road Rules referred to in this clause.”

Now what an absolutely useless note that is, and it annoys me that this National Road Transport Commission can have a site that doesn't show the variations from State to State in the adoption of the rules. What is its job if it is not to do that?

The NRTC is set up under the *National Road Transport Commission Act 1991* between the States, Territories and the Commonwealth.

If you visit the NRTC's web site it says that the NRTC's aims for road transport are to: make it more innovative, efficient and safer; make transport regulation more consistent and effective; and reduce road transport's environmental impacts.

Has it achieved its second aim in the case of the Road Rules?

The site goes on to say that the NRTC is supposed to co-ordinate the introduction of the reforms on-the-ground by transport agencies and to monitor the results.

To do this it has a staff of over 30 and States and Territories contribute 65 per cent of its funding from their vehicle registration charges, and the Commonwealth Government provides 35 per cent.

But what does the motorist get in return for these charges if they want to know what the road law is in a particular case?

There is certainly no "one-stop shop" on the NRTC web page, indeed the regulation cautions against relying on it.

Motorists or their lawyers have first got to buy a hard copy of the *Australian Road Rules* as published by the NRTC, on 19 October 1999, then work out which part was approved by the Australian Transport Council on 29 January 1999, and which amendments to it were approved by the Council on 30 June 1999 and 11 October 1999.

Now that's before they get anywhere near the actual legislation, the eight Acts and fourteen Regulations that I mentioned earlier!

We often hear phrases such as "roads in chaos" being used by the media at peak traffic and holiday times, but shouldn't it now be applied to the roads legislation itself ?

I'd like to move on to our last meeting in Brisbane on 8 May where we resolved to investigate the possibility of modifying the categories of National Scheme Legislation in our 1996 position paper. We also resolved to request our

respective Parliamentary Counsel to establish a register of National Scheme Legislation.

You may recall that at our last conference I tabled our Parliamentary Counsel's table of laws of other jurisdictions that are applied as laws of New South Wales.

I have appended the latest table of applied laws, in force as at 1 November 2000, to this paper.

Now you might think this is a good enough register as far as New South Wales is concerned. But if you have a look on page 157 you will see that the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 isn't listed and there is no other mention of the Road Rules - Why? Because the Road Rules are not a law of another jurisdiction.

They are made by the ATC exclusively for the purpose of adoption as part of our laws but are not themselves law.

I would think that of the eight legislative structures set out at annexure 1 at page 45 of our position paper of October 1996, this comes closest to Structure Eight, the "non-binding National Standards Model", but it could hardly be described as "non-binding" as there are national agreements under the National Road Transport Commission Act 1991 between the States, Territories and the Commonwealth to adopt the rules in the legislation of each State.

These agreements are in the following Schedules to the Act:

Schedule 1—Heavy Vehicles Agreement;
Schedule 1A—First Heavy Vehicles Amending Agreement;
Schedule 2—Light Vehicles Agreement;
Schedule 2A—First Light Vehicles Amending Agreement.

Indeed it was originally intended under the national agreements that a form of template legislation be adopted, with the ACT being the host legislature. This would bring it within our Structure Three.

I think if we are to revise our structures for national scheme legislation, it would be best to start with an analysis of the different types of national agreements governing its making.

I want to conclude with a point I made at our Darwin Conference. I don't think we ought to get bogged down in the detail of the type of National Committee we would like. After all the topic has been on the agenda since 1991.

I think if we start looking at some actual pieces of National Scheme legislation like the Road Rules at these meetings, we can get a better understanding of what we want and can start achieving some real reforms in the legislation itself.

NSW Legislation in Force—1 November 2000

Table of applied laws

Notes about this table

The purpose of this table is to identify laws of other jurisdictions that are applied as the laws of New South Wales.

The authority or enabling provisions for the application is provided, followed by the details of the original instrument and its current status.

In force as at **1 November 2000**.

A diamond (@) next to entry means that it is available in electronic form from the Government Information Service. Where available, URLs for Commonwealth legislation have been provided, courtesy of SCALEplus.

Agricultural and Veterinary Chemicals (New South Wales) Act 1994 No 53

- Section 5 of the Agricultural and Veterinary Chemicals (New South Wales) Act 1994 applies the Agvet Code set out in the Schedule to the Agricultural and Veterinary Chemicals Code Act 1994 of the Commonwealth as a law of New South Wales and provides that it may be cited as the Agvet Code of New South Wales.
- Section 6 of the Agricultural and Veterinary Chemicals (New South Wales) Act 1994 applies the regulations in force under section 6 of the Agricultural and Veterinary Chemicals Code Act 1994 of the Commonwealth as regulations in force for the purposes of the Agvet Code of New South Wales and provides that they may be referred to as the Agvet Regulations of New South Wales.

Agvet Code of New South Wales

<http://scaleplus.law.gov.au/html/pasteact/2/1158/top.htm>
Agricultural and Veterinary Chemicals Code Act 1994 No 47 (Cth)
Cth reprint: 31.10.96
Am Cth Acts 1996 No 59; 1997 No 22

Agvet Regulations of New South Wales

<http://scaleplus.law.gov.au/html/pastereg/1/614/top.htm>
Agricultural and Veterinary Chemicals Code Regulations 1995 (SR No 27, Cth)
Gazetted 28.2.95 (Cth)
Am 29.3.95 (SR No 54, Cth); 15.6.95 (SR No 137, Cth); 4.7.95 (SR No 187, Cth); 5.6.96 (SR No 83, Cth); 20.6.96 (SR No 111, Cth); 24.7.96 (SR No 162, Cth); 2.10.96 (SR No 216, Cth); 24.9.97 (SR No 264, Cth); 16.9.99 (SR No 215); 27.10.99 (SR No 247)

Air Navigation Act 1938 No 9

- Section 4 of the Air Navigation Act 1938 provides that the regulations in force from time to time under the Air Navigation Act 1920 of the Commonwealth, applicable to and in relation to air navigation within the Territories except so far as those regulations are by virtue of the Commonwealth Act and the regulations applicable to and in relation to air navigation within New South Wales), apply to and in relation to air navigation within New South Wales as if those regulations, as so applied, were incorporated in the Air Navigation Act 1938.

Air Navigation Act 1920 No 50 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/82/top.htm>

Cth reprint: 31.8.96 (No 5)

Am Cth Acts 1997 No 30; 1998 No 95; 1999 No 156

Air Navigation Regulations (SR 1947 No 112, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/173/top.htm>

Gazetted 7.8.47 (Cth)

Cth reprint: 31.3.94 (No 6)

Am 1.6.94 (SR No 148, Cth); 16.11.94 (SR No 384, Cth); 28.2.95 (SR No 29, Cth); 16.11.95 (SR No 342,

Cth); 22.12.95 (SR No 443, Cth); 20.6.96 (SR No 113, Cth); 24.12.96 (SR No 340, Cth); 3.12.97 (SR No

336, Cth); 24.12.97 (SR No 413, Cth); 1.12.98 (SR No 321, Cth); 22.12.99 (SR No 351, Cth); 9.6.00 (SR

No 96, Cth); 11.8.00 (SR No 217, Cth).

Civil Aviation (Carriers' Liability) Act 1967 No 64

- Section 5 of the Civil Aviation (Carriers' Liability) Act 1967 applies the provisions of Parts IV and IVA of the Civil Aviation (Carriers' Liability) Act 1959 of the Commonwealth (other than sections 27, 40, 41 and 41J (8)) and, subject to section 7, the provisions of the Commonwealth regulations, to and in relation to carriage to which this Act applies and matters connected with the carriage, as if those provisions were incorporated in the New South Wales Act (and subject to certain other provisions).

Civil Aviation (Carriers' Liability) Act 1959 No 2 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/111/top.htm>

Cth reprint: 30.6.94 (No 4)

Am Cth Acts 1995 Nos 89, 95; 1998 Nos 1, 95

Civil Aviation (Carriers' Liability) Regulations (SR 1991 No 6, Cth)

<http://scaleplus.law.gov.au/html/pastereg/1/584/top.htm>

Gazetted 22.1.91 (Cth)

Am 18.10.94 (SR No 356, Cth); 6.12.95 (SR No 366, Cth); 30.10.96 (SR No 240, Cth); 12.8.98 (SR No

256, Cth)

Companies (Acquisition of Shares) (Application of Laws) Act 1981 No 62

- Section 4 of the Companies (Acquisition of Shares) (Application of Laws) Act 1981 applies the provisions of the Companies (Acquisition of Shares) Act 1980 of the Commonwealth (other than sections 1, 2, 3, 4 and 5, amended as set out in Schedule 1 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as laws of New South Wales and section 11 provides that those provisions may be cited as the Companies (Acquisition of Shares) (New South Wales) Code.
- Section 6 of the Companies (Acquisition of Shares) (Application of Laws) Act 1981 provides that the provisions of regulations in force for the time being under the Companies (Acquisition of Shares) Act 1980 of the Commonwealth (other than provisions providing for the citation or commencement of the regulations) apply, as if amended as set out in Schedule 2 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981, as regulations made under the provisions applying by reason of section 4 and section 12 provides that those provisions may be cited as the Companies (Acquisition of Shares) (New South Wales) Regulations.

Companies (Acquisition of Shares) (New South Wales) Code

Companies (Acquisition of Shares) Act 1980 No 64 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/1/640/top.htm>

Cth reprint 31.10.87

Companies (Acquisition of Shares) (New South Wales) Regulations

Companies (Acquisition of Shares) Regulations (SR 1981 No 125, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/431/top.htm>

Gazetted 12.6.81 (Cth)

Cth reprint 31.1.88

Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981 No 63

- Section 8 of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981 applies the provisions of the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 of the Commonwealth (except sections 1, 2, 3, 4 and 5) as laws of New South Wales and section 9 provides that those provisions may be cited as the Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code.

Companies and Securities (Interpretation and Miscellaneous Provisions) (New South Wales) Code

Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 No 68 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/378/top.htm>

Cth reprint: Nil

Am Cth Acts: 1981 Nos 4, 98, 153; 1983 No 108; 1984 No 13; 1985 No 192; 1987 No 6; 1989 No 92; 1999 No 118.

Companies (Application of Laws) Act 1981 No 122

- Section 6 of the Companies (Application of Laws) Act 1981 applies the provisions of the Companies Act 1981 of the Commonwealth (except sections 1, 2, 3 and 4, amended as set out in Schedule 1 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as laws of New South Wales and section 10 provides that those provisions may be cited as the Companies (New South Wales) Code.
- Section 7 of the Companies (Application of Laws) Act 1981 provides that the provisions of regulations in force for the time being under the Companies Act 1981 of the Commonwealth (other than provisions providing for the citation or commencement of the regulations) apply, as if amended as set out in Schedule 2 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981, as regulations made under the provisions applying by reason of section 6 and section 11 provides that those provisions may be cited as the Companies (New South Wales) Regulations.

Companies (New South Wales) Code

Companies Act 1981 No 89 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/362/top.htm>

Am Cth Acts 1981 Nos 89, 153; 1982 Nos 26, 80; 1983 No 108 (am 1985 No 192); 1984 No 13; 1985 Nos

140, 192 (am 1991 No 201), 193; 1986 Nos 68, 163; 1987 Nos 6, 99; 1989 No 92 (am 1991 No 201); 1990

No 83; 1991 No 34

Companies (New South Wales) Regulations

Companies Regulations (SR 1982 No 120, Cth)
<http://scaleplus.law.gov.au/html/pastereg/0/430/top.htm>
Gazetted 16.6.82 (am 16.6.82 (SR No 121) (Cth))
Cth reprint 31.7.82

Am 6.10.83 (SR Nos 214, 215, Cth); 16.12.83 (SR No 316, Cth); 21.9.84 (SR No 246, Cth); 13.9.85 (SR No 228, Cth); 21.3.86 (SR No 33, Cth); 13.6.86 (SR No 136, Cth); 30.6.86 (SR No 155, Cth); 19.9.86 (SR No 247, Cth); 19.12.86 (SR No 376, Cth); 31.8.87 (SR No 172, Cth); 28.9.87 (SR No 206, Cth); 4.11.88 (SR No 265, Cth); 31.10.89 (SR Nos 295–297, Cth); 21.12.89 (SR No 370, Cth); 6.9.90 (SR No 285, Cth); 21.9.90 (SR No 295, Cth)

Competition Policy Reform (New South Wales) Act 1995 No 8

- Section 5 of the Competition Policy Reform (New South Wales) Act 1995 applies the Competition Code text, which consists of the Schedule version of Part IV and certain other provisions of the Trade Practices Act 1974 of the Commonwealth (including the regulations under that Act so far as they relate to any provisions covered by the above), as a law of New South Wales and section 10 provides that the Competition Code text applying as a law of this jurisdiction may be cited as the Competition Code of New South Wales.

Competition Code of New South Wales

Trade Practices Act 1974 No 51 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/115/top.htm>
Cth reprint 1.1.98 (No 8); Am Cth Acts 1998 Nos 36, 48, 101, 106; 1999 Nos 52, 61, 146, 176, 194; 2000 Nos 57, 123

Trade Practices Regulations (SR 1974 No 170, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/293/top.htm>
Gazetted 25.9.74 (Cth); Cth reprint: No 2 of 30.11.94
Am 16.8.95 (SR No 248, Cth); 3.11.95 (SR No 330, Cth); 31.1.96 (SR No 20, Cth); 12.3.97 (SR No 53, Cth); 23.4.97 (SR No 86, Cth); 27.11.97 (SR No 322, Cth); 22.12.98 (SR No 365, Cth); 1.7.00 (SR No 163, Cth); 1.7.00 (SR No 164, Cth); 5.7.00 (SR No 186, Cth).

Consumer Credit (New South Wales) Act 1995 No 7

- Section 5 of the Consumer Credit (New South Wales) Act 1995 applies the Consumer Credit Code set out in the Appendix to the Consumer Credit (Queensland) Act 1994 of Queensland as a law of New South Wales and provides that it may be referred to as the Consumer Credit (New South Wales) Code.
- Section 6 of the Consumer Credit (New South Wales) Act 1995 applies the regulations in force for the time being under Part 4 of the Consumer Credit (Queensland) Act 1994 of Queensland as regulations in force for the purposes of the Consumer Credit (New South Wales) Code and provides that they may be referred to as the Consumer Credit (New South Wales) Regulations.

Consumer Credit (New South Wales) Code

Consumer Credit (Queensland) Act 1994 No 51, Qld

<http://www.legislation.qld.gov.au/Legislation%20Docs/CurrentC.htm>
Qld reprint (Code): 2.11.98 (No 2) Am Qld Acts 1999 No 19; 1999 No 29

Consumer Credit (New South Wales) Regulations

Consumer Credit Regulation 1995 (SL No 410, Qld)
<http://www.legislation.qld.gov.au/Legislation%20Docs/CurrentC.htm>
Gazetted 22.12.95 (Qld)
Qld reprint: 7.5.99 (No 2) Am SL 1999 No 201 (Qld); SL 2000 No 206 (Qld)

Corporations (New South Wales) Act 1990 No 83

- Section 7 of the Corporations (New South Wales) Act 1990 applies the Corporations Law set out in section 82 of the Corporations Act 1989 of the Commonwealth (Corporations Act) as a law of New South Wales and provides that it may be referred to as the Corporations Law of New South Wales, or more simply as the Corporations Law.
- Section 8 of the Corporations (New South Wales) Act 1990 applies the regulations in force for the time being under section 22 of the Corporations Act 1989 of the Commonwealth (Corporations Act) as regulations in force for the purposes of the Corporations Law of New South Wales and provides that they may be referred to as the Corporations Regulations of New South Wales, or more simply as the Corporations Regulations.
- Section 58 of the Corporations (New South Wales) Act 1990 applies parts of the Australian Securities and Investments Commission Act 1989 of the Commonwealth (ASC Act) as a law of New South Wales and provides that it may be referred to as the ASC Law of New South Wales, or more simply as the ASC Law.
- Section 59 of the Corporations (New South Wales) Act 1990 applies the regulations in force for the time being under section 251 of the Australian Securities and Investments Commission Act 1989 of the Commonwealth (ASC Act) as regulations in force for the purposes of the ASC Law of New South Wales and provides that they may be referred to as the ASC Regulations of New South Wales, or more simply as the ASC Regulations.

ASC Law

Australian Securities and Investments Commission Act 1989 No 90 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/135/top.htm>

Cth reprint 17.12.98

Am Cth Act 1999 Nos 44, 146, 156; 2000 No 57

ASC Regulations

Australian Securities and Investments Commission Regulations (SR 1990 No 454, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/64/top.htm>

Gazetted 21.12.90 (Cth)

Am 1.7.89 (SR 1990 No 454, Cth); 3.8.93 (SR No 208, Cth); 6.9.94 (SR No 301, Cth); 30.12.94 (SR No 443, Cth); 7.9.98 (SR No 294, Cth); 1.9.99 (SR No 190, Cth); 13.3.00 (SR No 10, Cth)

Corporations Law

Corporations Act 1989 No 109 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/1/542/top.htm>

Cth reprint 17.12.98

Am Cth Act 1999 No 156; 2000 No 57.

Corporations (New South Wales) Act 1990 No 83—continued

Corporations Regulations

Corporations Regulations (SR 1990 No 455, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/475/top.htm>

Gazetted 21.12.90 (Cth). Cth reprint 31.3.95

Am 6.7.95 (SR No 222, Cth); 23.11.95 (SR Nos 344, 345, Cth); 19.12.95 (SR No 398, Cth); 5.2.96 (SR No 26, Cth); 1.5.96 (SR No 51, Cth); 15.5.96 (SR No 55, Cth); 5.6.96 (SR No 90, Cth); 17.9.96 (SR No 205, Cth); 2.10.96 (SR No 218, Cth); 24.12.96 (SR No 343, Cth); 12.2.97 (SR No 10, Cth); 14.4.97 (SR No 81, Cth); 15.5.97 (SR No 102, Cth); 23.6.97 (SR No 142, Cth); 11.2.98 (SR No 9,

Cth); 25.2.98 (SR No 22, Cth); 27.5.98 (SR No 109, Cth); 9.6.98 (SR No 128, Cth); 25.6.98 (SR No 161, Cth); 30.6.98 (SR Nos 185, 186, Cth); 22.7.98 (SR No 239, Cth); 7.9.98 (SR No 293, Cth); 18.3.99 (SR No 38, Cth); 24.3.99 (SR No 47, Cth); 30.6.99 (SR No 143, Cth); 16.9.99 (SR No 212, Cth); 20.10.99 (SR No 237, Cth); 2.12.99 (SR No 293, Cth); 13.3.00 (SR No 11, Cth); 24.3.00 (SR Nos 30, 31, Cth); 19.4.00 (SR No 50, Cth (disallowed by Senate 28.6.00)); 26.5.00 (SR No 78, Cth); 6.7.00 (SR No 175, Cth); 31.7.00 (SR No 206, Cth); 13.10.00 (SR No 282, Cth)

Futures Industry (Application of Laws) Act 1986 No 66

- Section 5 of the Futures Industry (Application of Laws) Act 1986 applies the provisions of the Futures Industry Act 1986 of the Commonwealth (except sections 1, 2 and 3, amended as set out in Schedule 1 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as laws of New South Wales and section 9 provides that those provisions may be cited as the Futures Industry (New South Wales) Code.
- Section 6 of the Futures Industry (Application of Laws) Act 1986 applies the provisions of regulations in force for the time being under the Futures Industry Act 1986 of the Commonwealth (other than provisions providing for the citation or commencement of the regulation, amended as set out in Schedule 2 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as regulations made under the provisions applying by reason of section 5 and section 10 provides that those provisions may be cited as the Futures Industry (New South Wales) Regulations.

Futures Industry (New South Wales) Code

Futures Industry Act 1986 No 72 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/264/top.htm>

Cth reprint 31.8.94

Futures Industry (New South Wales) Regulations

Futures Industry Regulations (SR 1986 No 150, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/330/top.htm>

Gazetted 30.6.86 (Cth)

Am 15.6.87 (SR No 111, Cth); 21.12.88 (SR No 341, Cth); 31.10.89 (SR No 300, Cth); 21.12.89 (SR No 371, Cth); 27.2.90 (SR No 41, Cth)

NSW reprint 22.8.86

Gas Pipelines Access (New South Wales) Act 1998 No 41

- Section 3 in its application to section 7 of the Gas Pipelines Access (New South Wales) Act 1998 applies the Gas Pipelines Access Law set out in Schedule 1 to the Gas Pipelines Access (South Australia) Act 1997 of South Australia as a law of New South Wales and provides that it may be referred to as the Gas Pipelines Access (New South Wales) Law.

Gas Pipelines Access (New South Wales) Law

Gas Pipelines Access (South Australia) Act 1997 No 74 (SA)

Gas Pipelines Access (South Australia) Regulation 1999

(SR No 258, SA)

Gazetted: 16.12.99 (SA).

National Electricity (New South Wales) Act 1997 No 20

- Section 6 of the National Electricity (New South Wales) Act 1997 applies the National Electricity Law set out in the Schedule to the National Electricity (South Australia) Act 1996 of South Australia as a law of New South Wales and provides that it may be referred to as the National Electricity (NSW) Law.
- Section 7 of the National Electricity (New South Wales) Act 1997 applies the regulations in force for the time being under Part 4 of the National Electricity (South Australia) Act 1996 of South Australia as regulations in force for the purposes of the National Electricity (NSW) Law and provides that they may be referred to as the National Electricity (NSW) Regulations.

National Electricity (NSW) Law ®®

National Electricity (South Australia) Act 1996 No 44 (SA)
SA reprint No 2, 13.11.98

National Electricity (NSW) Regulations ®®

National Electricity (South Australia) Regulations (No 211 of 1998, SA)
Gazetted 8.12.98 (SA)
Am 2.12.99 (SR No 246, SA)

Poisons and Therapeutic Goods Act 1966 No 31

- Section 31 of the Poisons and Therapeutic Goods Act 1966 applies the Commonwealth therapeutic goods laws, as in force for the time being and as modified by or under this Act, which consists of the Therapeutic Goods Act 1989 of the Commonwealth and all regulations, orders, and manufacturing principles in force under that Act, as a law of New South Wales. The regulations under the New South Wales Act may modify the Commonwealth therapeutic goods laws.

Commonwealth therapeutic goods laws

Therapeutic Goods Act 1989 (1990 No 21) (Cth)
<http://scaleplus.law.gov.au/html/pasteact/0/400/top.htm>
Cth reprint: 31.7.92 (No 1)
Am Cth Acts 1993 No 76; 1995 No 85; 1996 No 6; 1997 Nos 116, 152; 1998 No 34; 1999 Nos 3, 146; 2000 Nos 12, 56, 120

Therapeutic Goods Regulations (SR 1990 No 394, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/25/top.htm>
Gazetted 6.12.90 (Cth)
Cth reprint: 8.3.95 (No 2)
Am 31.5.95 (SR No 111, Cth); 30.6.95 (SR No 192, Cth); 4.7.95 (SR No 208, Cth); 29.8.95 (SR No 253, Cth); 3.11.95 (SR Nos 320, 328, Cth); 31.1.96 (SR No 9, Cth); 5.2.96 (SR No 25 ^(a), Cth); 28.6.96 (SR No 131, Cth); 11.9.96 (SR No 200, Cth); 26.9.96 (SR No 208, Cth); 30.6.97 (SR No 162, Cth); 24.12.97 (SR Nos 398, 399, 400, 401 ^(b), Cth); 16.7.98 (SR No 227, Cth); 31.7.98 (SR No 247, Cth); 22.12.98 (SR No 369, Cth); 16.4.99 (SR No 62, Cth); 16.9.99 (SR No 209, Cth); 16.12.99 (SR No 324, Cth); 23.3.00 (SR No 29, Cth); 19.4.00 (SR No 48, Cth); 8.5.00 (SR No 70, Cth); 22.6.00 (SR No 123, Cth); 22.6.00 (SR No 124, Cth); 28.9.00 (SR No 267, Cth)

Notes:

- ^(a) Statutory Rules 1996 No 25 were disallowed by the Senate on 10.9.96.
- ^(b) Statutory Rules 1998 No 401 were disallowed by the Senate on 31.3.98.

Price Exploitation Code (New South Wales) Act 1999 No 55

- Section 5 of the Price Exploitation Code (New South Wales) Act 1999 applies the New Tax System Price Exploitation Code text, which consists of the Schedule version of Part VB, certain other provisions of the Trade Practices Act 1974 of the Commonwealth (including the regulations under that Act so far as they relate to any provisions covered by the above) and guidelines under that Act, as a law of New South Wales and section 10 provides that the New Tax System Price Exploitation Code text applying as a law of this jurisdiction may be cited as the New Tax System Price Exploitation Code of New South Wales.

New Tax System Price Exploitation Code of New South Wales

Trade Practices Act 1974 No 51 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/115/top.htm>

Cth reprint 1.1.98 (No 8)

Am Cth Acts 1998 Nos 36, 48, 101, 106; 1999 Nos 52, 61, 146, 176, 194; 2000 Nos 57, 123.

Price Exploitation Code (New South Wales) Act 1999 No 55—continued

Trade Practices Regulations (SR 1974 No 170, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/293/top.htm>

Gazetted 25.9.74 (Cth)

Cth reprint: No 2 of 30.11.94

Am 16.8.95 (SR No 248, Cth); 3.11.95 (SR No 330, Cth); 31.1.96 (SR No 20, Cth); 12.3.97 (SR No 53, Cth); 23.4.97 (SR No 86, Cth); 27.11.97 (SR No 322, Cth); 22.12.98 (SR No 365, Cth); 1.7.00 (SR No 163, Cth); 1.7.00 (SR No 164, Cth); 5.7.00 (SR No 186, Cth)

Road and Rail Transport (Dangerous Goods) Act 1997 No 113

- Section 11 (7) of the Road and Rail Transport (Dangerous Goods) Act 1997 provides that the regulations under that Act may apply any or all of the provisions of regulations in force from time to time under an Act of the Commonwealth or another State or a Territory as regulations applying under the New South Wales Act (and, in so applying such regulations, may provide for their citation for the purposes of the law of New South Wales). Any such regulations may be applied as they currently exist, as amended by the regulations under the New South Wales Act or as amended from time to time.

1 Clause 5 of the Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999 (published in GG No 27 of 5.3.1999, p 1648) applies the Rail (Dangerous Goods) Rules (published by the Australian Government as a Schedule to the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail) as regulations in force for the purposes of the Road and Rail Transport (Dangerous Goods) Act 1997, and subject to the modifications as set out in Schedule 1 to the Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999.

Clause 6 of the Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999 provides that the Rail (Dangerous Goods) Rules, as applied by clause 5, may be referred to as the Rail Transport (Dangerous Goods) (New South Wales) Regulations.

2 Clause 5 of the Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998 (published in GG No 67 of 9.4.1998, p 2514) applies the Road Transport Reform (Dangerous Goods) Regulations of the Commonwealth as regulations in force for the purposes of the Road Transport (Dangerous Goods) Act 1997, subject to the modifications as set out in Schedule 1 to the Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998.

Clause 6 of the Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998 provides that the Commonwealth Regulations, as applied by clause 5, may be referred to as the Road Transport Reform (Dangerous Goods) (New South Wales) Regulations.

Rail Transport (Dangerous Goods) (New South Wales) Regulations

Rail (Dangerous Goods) Rules (Cth)

Published: 1.1.1998 (see sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail (approved by the Australian Government Ministerial Council for Road Transport))

Modified 5.3.1999, see GG No 27 of 5.3.1999, p 1648

Road Transport Reform (Dangerous Goods) (New South Wales) Regulations

Road Transport Reform (Dangerous Goods) Regulations (SR 1997 No 241, Cth)

<http://scaleplus.law.gov.au/html/pastereg/2/1396/top.htm>

Gazetted 10.9.1997 (Cth)

Am 16.10.99 (SR No 211, Cth)

Securities Industry (Application of Laws) Act 1981 No 61

- Section 6 of the Securities Industry (Application of Laws) Act 1981 applies the provisions of the Securities Industry Act 1980 of the Commonwealth (except sections 1, 2 and 3, amended as set out in Schedule 1 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as laws of New South Wales and section 10 provides that those provisions may be cited as the Securities Industry (New South Wales) Code.
- Section 7 of the Securities Industry (Application of Laws) Act 1981 applies the provisions of regulations in force for the time being under the Securities Industry Act 1980 of the Commonwealth (other than provisions providing for the citation or commencement of the regulations, amended as set out in Schedule 2 to the New South Wales Act and subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981) as regulations made under the provisions applying by reason of section 6 and section 11 provides that those provisions may be cited as the Securities Industry (New South Wales) Regulations.

Securities Industry (New South Wales) Code

Securities Industry Act 1980 No 66 (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/110/top.htm>

Cth reprint: 31.12.92.

Securities Industry (Application of Laws) Act 1981 No 61—continued

Securities Industry (New South Wales) Regulations

Securities Industry Regulations (SR 1981 No 127, Cth)

<http://scaleplus.law.gov.au/html/pastereg/0/494/top.htm>

Gazetted 12.6.81 (Cth)

Cth reprint 30.9.96

Sports Drug Testing Act 1995 No 45

- Section 11 of the Sports Drug Testing Act 1995 applies the Commonwealth sports drug testing laws (which consists of the provisions of Part 3 of the Australian Sports Drug Agency Act 1990 of the Commonwealth, and the regulations made under those provisions), as in force from time to time, as laws of the State.

Commonwealth sports drug testing laws

Australian Sports Drug Agency Act 1990 (1991 No 18) (Cth)

<http://scaleplus.law.gov.au/html/pasteact/0/42/top.htm>

Am Cth Acts 1991 Nos 33, 179; 1992 Nos 21, 108, 118; 1994 No 42; 1995 No 25; 1996 No 20; 1997 Nos 118, 152; 1999 Nos 5, 146; 2000 No 57

Australian Sports Drug Agency Regulations (SR 1991 No 19, Cth)

<http://scaleplus.law.gov.au/html/pastereg/3/1536/top.htm>

Gazetted 18.2.91 (Cth)

Cth reprint: 30.11.93

Am 23.8.94 (SR No 284, Cth); 13.12.94 (SR No 410, Cth); 24.7.96 (SR No 163, Cth)

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- ¹ Commencement by proclamation may be necessary as all jurisdictions will need to bring the legislation into force simultaneously.
 - ² Each jurisdiction will need to modify according to suit practice and procedure.
 - ³ Mirrors immunity provision in Victorian *Parliamentary Committees Act 1968*.
 - ⁴ Mirrors privilege provision in *Victorian Constitution Act 1975*.
 - ⁵ Other jurisdictions may have special reporting requirements in addition to those established under the common terms in the agreement. This provision will allow all jurisdictions to report on the non-common terms and thereby discharge any statutory requirements.