







SCRUTINY OF ACTS AND  
REGULATIONS COMMITTEE

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56<sup>th</sup> Parliament  
**Annual Review**  
**2006**

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## Scrutiny of Acts and Regulations Committee

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# Contents

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<b>Annual Review 2006</b>	<b>1</b>
<b>Appendices</b>	
1 – Index of Bills Reported 2006	11
2 – Committee Comments classified by Terms of Reference	15
3 – Ministerial Correspondence	17
4 – Committee Reports and Other Papers	19
5 – Regulations considered in 2006	25
6 – Practice Notes	31





# Terms of Reference

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**Section 17** of the *Parliamentary Committees Act 2003* sets out the statutory functions of the Scrutiny of Acts and Regulations Committee. These functions are –

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
  - (i) trespasses unduly on rights or freedoms;
  - (ii) makes rights, freedoms or obligations dependent on insufficiently defined administrative powers;
  - (iii) makes rights, freedoms or obligations dependent on non-reviewable administrative decisions;
  - (iv) 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*;
  - (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
  - (vi) inappropriately delegates legislative power;
  - (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny;
- (b) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament –
  - (i) as to whether the Bill directly or indirectly repeals, alters or varies section 85 of the *Constitution Act 1975*, or raises an issue as to the jurisdiction of the Supreme Court;
  - (ii) if a Bill repeals, alters or varies section 85 of the *Constitution Act 1975*, whether this is in all the circumstances appropriate and desirable;
  - (iii) if a Bill does not repeal, alter or vary section 85 of the *Constitution Act 1975*, but an issue is raised as to the jurisdiction of the Supreme Court, as to the full implications of that issue;
- (c) to consider any Act that was not considered under paragraph (a) or (b) when it was a Bill –
  - (i) within 30 days immediately after the first appointment of members of the Committee after the commencement of a Parliament; or
  - (ii) within 10 sitting days after the Act receives Royal Assent —whichever is the later, and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (g) to review any Act in accordance with the terms of reference under which the Act is referred to the Committee under this Act.



# Chairperson's Introduction

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I am pleased to introduce the Scrutiny of Acts and Regulations Committee's Annual Review covering the calendar year 2006. There were 2 Committees during 2006, one in the final months of the 55<sup>th</sup> Parliament and the second Committee was established on the commencement of the 56<sup>th</sup> Parliament in December.

In brief, the functions of the Committee are to review all Bills introduced into Parliament, to review regulations, to review and report on redundant or unclear Acts and to undertake specific inquiries referred to the Committee either by the Parliament or by a Minister.

In July 2006 the Parliament enacted the *Charter of Human Rights and Responsibilities Act 2006* (the 'Charter'). On commencement in January 2007 the Charter gives the Committee a new human rights focus in the scrutiny of primary and subordinate legislation. The Charter requires the Committee to report to Parliament on any provision in a Bill or in regulations which is incompatible with the civil and political rights in Chapter 2 of the Charter. I have no doubt that the enactment of the Charter will present challenging work for the Parliament and the Committee in the future.

The Committee has been fortunate to have a dedicated and professional secretariat staff, and I take this opportunity to thank our Senior Legal Adviser, Andrew Homer, for effectively leading our team during 2006. The Committee is also indebted to Ms Helen Mason for her experienced guidance in the scrutiny of regulations, and to Simon Dinsbergs and Sonya Caruana for their efficient management and administrative support during the year.

**Carlo Carli MP**  
**Chairperson**

**July 2007**

Section 35 (b)(iv) of the *Interpretation of Legislation Act 1984* provides –

*In the interpretation of a provision of an Act or subordinate instrument consideration may be given to any matter or document that is relevant including, but not limited to, reports of Parliamentary Committees.*



### ***ROLE OF THE COMMITTEE***

*The Scrutiny of Acts and Regulations Committee is an all-party Joint House Committee, which examines all Bills and subordinate legislation (regulations) presented to the Parliament. The Committee does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of non-partisan legislative scrutiny. These traditions have been developed since the first Australian scrutiny of bills committee of the Australian Senate commenced operation in 1982. They are precedents and traditions followed by all Australian scrutiny committees. Non-policy scrutiny within its terms of reference allows the Committee to alert the Parliament to the use of certain legislative practices and allows the Parliament to consider whether these practices are necessary, appropriate or desirable in all the circumstances.*

# Annual Review 2006

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## The Annual Review

This report provides an overview of the activities and functions of the Victorian Parliament's Scrutiny of Acts and Regulations Committee ('the Committee') during the calendar year 2006. There are two publications that further describe the Committee's work during 2006, the Annual Review of Regulations considered in 2006<sup>i</sup> and the cumulative Alert Digest<sup>ii</sup> concerning the scrutiny of Bills introduced in the Parliament in 2006.

The Committee's reports and other publications (including this report) are available on the Committee's Website <[www.parliament.vic.gov.au/sarc](http://www.parliament.vic.gov.au/sarc)>.

## The Committee

The Committee is established under the *Parliamentary Committees Act 2003*<sup>iii</sup> ('the Act') as one of the 12 Joint House Committees of the Victorian Parliament. It is one of six Joint House Committees administered by the Department of the Legislative Assembly. The remaining six Joint House Committees are administered by the Department of the Legislative Council.

Membership of the Committee is drawn from Members of the Legislative Council (the 'Council') and the Legislative Assembly (the 'Assembly') and from both government and opposition members.

## Brief history of the Committee

The Committee under its current name was established at the commencement of the 52<sup>nd</sup> Parliament in November 1992. Mr Victor Perton MLA (LP – Doncaster) became the Committee's first Chairman. Following the March 1996 State election, the Committee was reconstituted for the 53<sup>rd</sup> Parliament with Mr Peter Ryan MLA (NP – Gippsland South) as Chairman. The 53<sup>rd</sup> Parliament was dissolved in August 1999. The Committee of the 54<sup>th</sup> Parliament was reconstituted on 15 December 1999 with Ms Mary Gillett MLA (ALP – Werribee) elected Chair of the Committee. From March 2003, the Chairperson of the Committee in the 55<sup>th</sup> Parliament was Ms Lily D'Ambrosio MLA (ALP – Mill Park). In the current Parliament (56<sup>th</sup>) the Chairperson of the Committee (since December 2006) is Mr Carlo Carli MLA (ALP – Brunswick).

Prior to the Committee in its present form, the Parliament performed a scrutiny of subordinate legislation (regulations) function through the now defunct Legal and Constitutional Committee.

The Parliaments of the Commonwealth, New South Wales, Queensland and the Australian Capital Territory have parliamentary committees that perform comparable scrutiny of bills functions. All Australian Parliaments have committees that perform scrutiny of regulations.

## Committee composition and membership

The Act<sup>iv</sup> requires that a Parliamentary Committee comprise not more than ten members, of whom at least two must be members of the Council and two of the Assembly.

The Committee of the 55<sup>th</sup> Parliament consisted of nine members, seven from the Assembly and two from the Council. The Committee established in December 2006 in the 56<sup>th</sup> Parliament consisted of nine members 5 from the Assembly and four from the Council. As in previous Parliaments, the Committee, in each case was composed of five members from the government and four members from the opposition parties.

### Committee members during 2006

The members of the Committee during 2006 were –

#### **55<sup>th</sup> Parliament** (to October 2006)

- Ms Lily D’Ambrosio MLA (Chairperson)
- Mr Murray Thompson MLA (Deputy Chairperson)
- The Hon. Lidia Argondizzo MLC
- The Hon. Andrew Brideson MLC
- Mr Ken Jasper MLA
- Mr Michael Leighton MLA
- Mr Peter Lockwood MLA
- Mr Andrew McIntosh MLA
- Mr Jude Perera MLA

#### **56<sup>th</sup> Parliament** (from 19 December 2006)

- Mr Carlo Carli MLA (Chairperson)
- Mr Colin Brooks MLA
- The Hon. Richard Dalla-Riva MLC
- Mr Khalil Eideh MLC
- Mr Nazih Elasmr MLC
- Mr Ken Jasper MLA
- Mr Andrew McIntosh MLA
- Ms Jaala Pulford MLC
- Mr Murray Thompson MLA

## The subcommittees

By Committee resolutions passed at the commencement of the 55<sup>th</sup> Parliament the Committee established the Regulation Review Subcommittee and the Redundant Legislation Subcommittee. The Committee may establish other subcommittees that may be desirable to undertake specialist inquiry work from time to time.

### Regulation Review Subcommittee

The functions of this Subcommittee are to review statutory rules, as defined by the *Subordinate Legislation Act 1994*, against specified terms of reference specified in that Act.<sup>v</sup> Pursuant to other statutory reporting responsibilities, the Subcommittee must also review other specified subordinate instruments.

The members of the Regulation Review Subcommittee during 2006 (to October 2006) were –

- Mr Peter Lockwood MLA (Chair)
- Ms Lily D’Ambrosio MLA
- The Hon. Andrew Brideson MLC
- Mr Ken Jasper MLA
- Mr Jude Perera MLA

### Redundant Legislation Subcommittee

The Subcommittee was first established as a consequence of a long-standing Governor in Council reference (1994), which has been renewed at the commencement of each Parliament. The reference requires the Committee to review and make recommendations concerning Acts of Parliament or legislative instruments that are unclear, ambiguous or should be redrafted.

The Committee did not receive any additional new references during 2005 or 2006.

The members of the Redundant Legislation Subcommittee during 2006 (to October) were –

- Mr Murray Thompson MLA (Chairperson)
- Ms Lily D’Ambrosio MLA
- The Hon. Lidia Argondizzo MLC
- Mr Michael Leighton MLA
- Mr Andrew McIntosh MLA

### Secretariat and consultants

#### Staffing

The Committee employs a small secretariat staff comprising an Executive Officer (Senior Legal Adviser), a Legal Adviser, Regulations and two administrative support staff. The secretariat of the Committee during 2006 comprised of –

- Mr Andrew Homer, Executive Officer and Senior Legal Adviser
- Mr Simon Dinsbergs, Assistant Executive Officer
- Ms Helen Mason, Legal Adviser, Regulations
- Ms Sonya Caruana, Office Manager.

The Committee’s office is located at Level 3, 55 St Andrews Place, Melbourne.

#### External consultants

The Committee did not engage any external consultants during 2006.

### The Committee’s work during 2006

The Committee’s work during 2006 fell into four main areas –

- Scrutiny of Bills introduced into Parliament;<sup>vi</sup>
- Scrutiny of subordinate legislation<sup>vii</sup> (regulations) and specified directives and other instruments (refer also to the *Subordinate Legislation Act 1994*, s. 21; *Environment Protection Act 1970*, ss. 18D, 49AN and 70C and other Acts);<sup>viii</sup>

- Review of redundant, ambiguous or unclear legislation;
- Inquiries or the review of Acts that are referred to the Committee by a resolution of either the Council or the Assembly<sup>ix</sup> or by a Minister through an Order of the Governor in Council published in the Government Gazette.<sup>x</sup>

### Section 17(a) – Scrutiny of Bills

The Committee considered 87 Bills during 2006. Pursuant to section 17(a) the Committee is required to consider any Bill introduced in the Council or the Assembly and report to the Parliament under seven separate heads of scrutiny, numbered sub-paragraphs (i) to (vii) –

- (i) trespasses unduly upon rights or freedoms;
- (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
- (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
- (iv) 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*;
- (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
- (vi) inappropriately delegates legislative power;
- (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

A list of the Bills considered by the Committee during 2006 and the tabling dates of the 12 separate Alert Digests in which they are found is shown in **Appendix 1**. The Bills on which the Committee made a substantive comment based on the respective scrutiny principles is shown in **Appendix 2**.

### A selection of noteworthy Bills in 2006

The *Aboriginal Heritage Bill* seeks to protect and conserve Aboriginal cultural heritage.

The *Charter of Human Rights and Responsibilities Bill* (the ‘Charter’) establishes a framework for the protection and promotion of human rights in Victoria. The Charter provides additional terms of reference to the Committee to report to Parliament on provisions in Bills and regulations that may be incompatible with Charter rights.

The *Charities (Amendment) Bill* increased the monetary limit for an application to the Attorney-General, rather than to the Supreme Court, for the approval of a *cy pres* scheme from \$50,000 to \$500,000.

The *Crimes (Family Violence) (Holding Powers) Bill* included provisions that permit police to detain a person in preventative detention for short periods (up to 10 hours) if such detention may prevent family violence or further violence. The detention may be in a police gaol or a prison.

The *Crimes (Homicide) Bill* abolished the common law partial defence of provocation and recast or clarified a number of defences to homicide.

The *Children, Youth and Families Bill* replaces the *Children and Young Persons Act 1989* including new provisions concerning children in need of therapeutic treatment.



The ***Commissioner for Law Enforcement Data Security Bill*** established the office of Commissioner for Law Enforcement Data Security and provided a regime for the monitoring of law enforcement data security management practices.

The ***Courts Legislation (Neighbourhood Justice Centre) Bill*** established a Neighbourhood Justice Division of the Magistrates' Court to trial, as a pilot project, a more flexible and speedy justice system.

The ***Defamation Bill*** abolishes the distinction between libel and slander, removes the power of juries to assess damages, bars corporations (of a certain size) from commencing defamation proceedings, bars an award of punitive or exemplary damages, imposes a statutory limit to the award of non-economic loss and abridges the time in which an action in defamation may be commenced.

The ***Disability Bill*** enacted a new legislative scheme for persons with a disability.

The ***Education and Training Reform Bill*** provided for a new legislative basis for the regulation of education and training in Victoria and repealed 11 existing education and training related Acts.

The ***Electoral and Parliamentary Committees Legislation (Amendment) Bill*** introduced electronic voting for visually impaired persons and amended the *Parliamentary Committees Act 2003* to allow the Scrutiny of Acts and Regulations Committee to report on Bills up to 10 sitting days after the Bill had become an Act (i.e. after Royal Assent). The amendment allows the Committee to report to Parliament, for example, where a Bill is considered urgent and receives speedy passage through Parliament without the Committee being able to meet, consider and report on the provisions of a Bill.

The ***Infringements Bill*** provides a new framework for the issuing, serving and enforcement of infringement notices.

The ***Owners Corporations Bill*** creates a new legal framework for the governance of bodies corporate.

The ***Statute Law (Further Revision Bill)*** made minor amendments to 41 Acts, twelve of which were retrospective amendments and removed some 147 spent or redundant Acts from the Victorian statute books.

The ***Terrorism (Community Protection) (Amendment) Bill*** provided for a raft of new counter-terrorism measures and enhanced existing powers. The provisions gave effect to a Commonwealth, States and Territories agreement. The Committee undertook considerable community consultation in relation to the Bill, resulting in written submissions and evidence provided by concerned parties at a public hearing. The Committee included a detailed report of its comments in Alert Digest No.1 of 2006, and its website carried the submissions and a transcript of the evidence taken.

The ***Victim's Charter Bill*** provides a statutory recognition for the rights of victims of crime.

## Section 17(b) – Scrutiny of Bills – Section 85, Constitution Act 1975

Pursuant to section 17(b) of the *Parliamentary Committees Act 2003*, the Committee has a 'specific reporting' brief in relation to Bills containing any provision which repeals, alters or varies the jurisdiction of the Supreme Court (section 85 of the *Constitution Act 1975*). The Committee is required to report to the Parliament on the desirability and appropriateness of such provisions.

Of the 87 Bills considered in 2006, three (3 per cent) contained a section 85 *Constitution Act 1975* provision. In 2005, of the 113 Bills introduced, nine 9 (8 per cent) contained section 85 provisions. The Bills in 2006 containing section 85 provisions are listed in **Appendix 2**.

### Ministerial correspondence related to Bills

Ministerial response turnaround time continues to vary, with some Ministers responding to the Committee’s correspondence within days and others over more extended periods. On occasions the Committee needs to follow up requests for further advice by courtesy reminder letters. In 2006, the Committee was satisfied with the response time and the level of detail provided by Ministers to the Committee’s concerns.

### The results of the Committee’s work

The main function of the Committee is to advise the Parliament on the use of certain legislative practices in Bills introduced into the Parliament. Those legislative practices are listed in section 17(a)(i) to (vii) of the *Parliamentary Committees Act 2003* and provide the basis for the Committee’s terms of reference. The ongoing feedback the Committee receives suggests that Members are assisted by the information provided in Alert Digests, which often include important extracts from the second reading speech and the explanatory memorandum.

There is frequent anecdotal evidence amongst government legal and legislation officers that the role and functions of the Committee are well understood, and that legislation that may test or infringe the Committee’s terms of reference will require appropriate explanation justifying their inclusion.

### Statistical summary of Bills considered by the Committee from 2002 to 2006

*Table 1 – Number of Bills considered by the Committee and of those the number having section 85 Constitution Act 1975 provisions.*

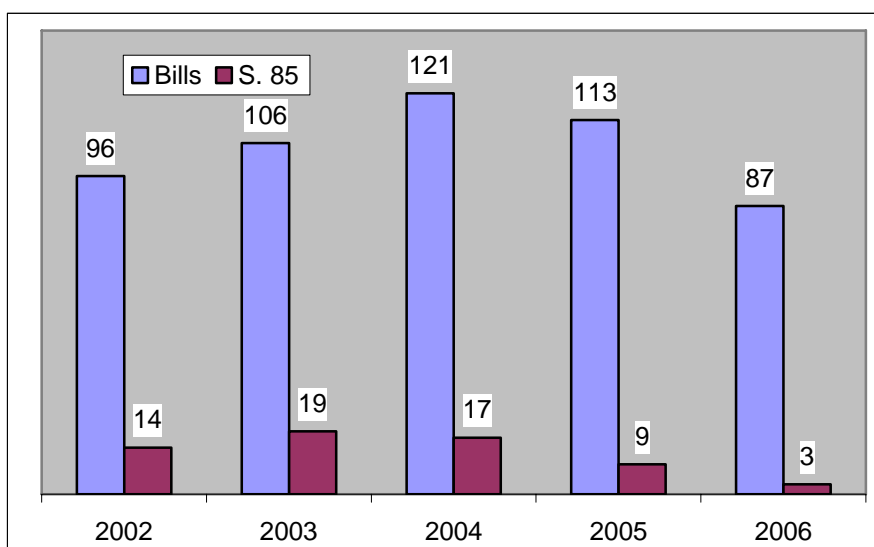
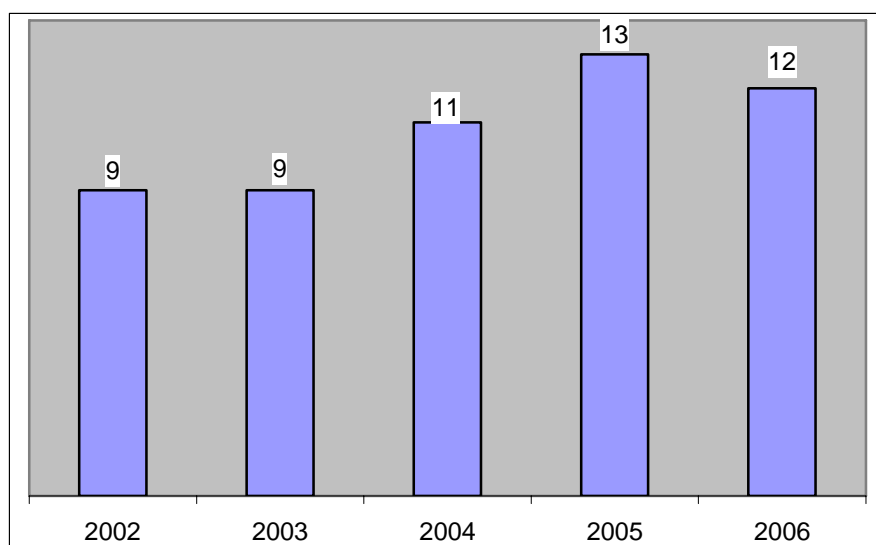


Table 2 – Number of Alert Digests tabled in Parliament



### Section 17(d) – Scrutiny of Regulations – Subordinate Legislation Act 1994

#### *Regulation Review Subcommittee*

The Regulation Review Subcommittee held six meetings during 2006. During those meetings it considered 135 statutory rules. Of those statutory rules considered by the Subcommittee, 20 were accompanied by regulatory impact statements. The statutory rules examined by the Subcommittee during 2006 are shown at **Appendix 5**.

The Committee did not make any adverse reports to Parliament during 2006 concerning regulations. However of the statutory rules examined during 2006, the Subcommittee had concerns with five and wrote to responsible Ministers seeking clarification. In each case the Subcommittee received satisfactory responses to the issues raised. The Committee intends to release its Annual Review of statutory rules considered during 2006 by mid-2007.

### Section 17(e) – Environment Protection Act 1970

The Regulation Review Subcommittee did not consider any state environment protection policies or waste management policies during 2006 under this term of reference.

### Section 17(f) – Reports pursuant to the Co-operative Schemes (Administrative Actions) Act 2001

The Committee was not required to report to the Parliament during 2006 on any Act sought to be declared pursuant to the *Co-operative Schemes (Administrative Actions) Act 2001*.

### Section 17(g) – Review of Acts referred to the Committee

During 2006 the Committee was not referred any new inquiry under this term of reference.

### Section 33 – Referrals to Joint Investigatory Committees

During 2006 the Committee completed a Parliamentary referral in respect to the *Statute Law (Further Revision) Bill* tabled in March 2006.

## Committee expenditure and budget<sup>xi</sup>

<i>Budget</i> 2004/2005	<i>Actual</i> 2004/2005	<i>Budget</i> 2005/2006	<i>Actual</i> 2005/2006	<i>Budget</i> 2006/2007	<i>Actual</i> 2006/2007
\$475,900	\$452,046	\$367,710	\$353,440	\$378,696	\$277,783

## Committee publications released during 2006

During 2006, the Committee published the following reports and papers in print and also on its website –

- Alert Digests Nos. 1 to 13 of 2005, *March 2006*.
- Annual Review 2005, *March 2006*.
- Report on the Statute Law (Further Revision) Bill, *March 2006*.
- Annual Review 2005, Regulations 2005, *July 2006*.
- Alert Digests Nos. 1 to 12 of 2006, *November 2006*.

A chronological list of all Committee reports and publications dating from the inception of the Committee in 1992 to the present day is provided in **Appendix 4**.

## Other reports due to be published during 2007

- Report on the Statute Law Repeals Bill 2006, *April 2007*
- Report on the Statute Law Revision Bill 2006, *May 2007*
- Annual Review 2006, Regulations 2006, *mid-2007*.
- Alert Digests on Bills introduced during 2007, *February to December 2007*.

## Committee issues first Practice Note

In October 2005, the Committee issued its first Practice Note, which was intended to be advisory in character. Its main purpose is to inform legislation and legal officers in government agencies and departments of the Committee's reporting practices and information requirements concerning particular provisions in Bills that test the Committee's terms of reference. The most frequently encountered areas of concern for the Committee are inadequately explained or unexplained provisions that provide for, (a) retrospective application, (b) wide delegation powers or, (c) commencement by proclamation or delayed commencement.

The Committee also identified inadequate or deficient explanatory memoranda in respect to clauses that invoke the Committee's terms of reference as an area for future attention.

The Committee's Practice Note is reproduced in **Appendix 6**.

## Committee website

During 2006 the Committee continued to maintain a comprehensive and frequently updated website. The Committee's website provides links to the Department of Premier and Cabinet (DPC) website, which has comprehensive information concerning Victorian statutes, including the Bills currently before Parliament. The DPC website provides information on the Bills and the

accompanying explanatory memoranda in PDF and Word file formats. Further, the DPC site has a link to the Parliamentary Hansard site, giving easy access to the relevant second reading speeches.

The Committee's website includes the contact and membership details of counterpart Australasian scrutiny committees.



## Endnotes

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- i To be published early 2006.
- ii Published in March 2006.
- iii *Parliamentary Committees Act 2003*, s. 5(k).
- iv *Parliamentary Committees Act 2003*, s. 21(1).
- v *Subordinate Legislation Act 1994*, s. 21.
- vi *Parliamentary Committees Act 2003*, ss. 17(a) and (b).
- vii The scrutiny of statutory rules (regulations) predates the formation of the Committee and was performed by a number of predecessor Parliamentary Committees such as the Legal and Constitutional Committee (now defunct).
- viii *Road Management Act 2004*, ss.23(4) & 30(2); *Port Services Act 1995*, s.184(2); *Radiation Act 1995*, s.5(2); *Estate Agents Act 1980*, ss.10C(2) & 45A(2); *Fundraising Appeals Act 1998*, s.16A(6); *Fair Trading Act 1999*, s.32NA(7); *Rail Corporations Act 1996*, s.38C(2); *Fisheries Act 1995*, s.151(8B); and *Rail Safety Act 2006*, s.104(3).
- ix *Parliamentary Committees Act 2003*, ss. 33(1)(a) and (b).
- x *Parliamentary Committees Act 2003*, s. 33(1)(b).
- xi Budgets and expenditure include current inquiry budgets, staff salaries, superannuation and training, office expenses, Members allowances and interstate and overseas travel.

# Appendix 1

## Index of Bills Reported 2006

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	<u>Alert Digest Nos.</u>
Aboriginal Heritage Bill	4, 6
Accident Compensation and Other Legislation (Amendment) Bill	6
Appropriation (2006/2007) Bill	6
Appropriation (Parliament 2006/2007) Bill	6
Building and Construction Industry Security of Payment (Amendment) Bill	2, 4
Catchment and Land Protection (Further Amendment) Bill	8, 10
Charities (Amendment) Bill	9
Charter of Human Rights and Responsibilities Bill	5, 7
Children, Youth and Families (Consequential and Other Amendments) Bill	7
City of Melbourne and Docklands Acts (Governance) Bill	10
Civil Unions Bill	11
Conveyancers Bill	9
Coptic Orthodox Church (Victoria) Property Trust Bill	8
Coroners and Human Tissue Acts (Amendment) Bill	8, 9
Corrections and Other Justice Legislation (Amendment) Bill	7
Courts Legislation (Jurisdiction) Bill	7
Courts Legislation (Neighbourhood Justice Centre) Bill	7
Crimes (Document Destruction) Bill	1
Crimes (Family Violence)(Holding Powers) Bill	1
Crimes (Sexual Offences) Bill	1
Crimes (Sexual Offences)(Further Amendment) Bill	9
Disability Bill	3
Drugs, Poisons and Controlled Substances (Aged Care Services) Bill	3
Drugs, Poisons and Controlled Substances (Amendment) Bill	6
Drugs, Poisons and Controlled Substances (Prohibition of Display and Sale of Cocaine Kits) Bill	3
Drugs, Poisons and Controlled Substances (Volatile Substances)(Extension of Provisions) Bill	2
Education and Training Reform Bill	2
Electoral and Parliamentary Committees Legislation (Amendment) Bill	6, 9
Energy Legislation (Hardship, Metering and Other Matters) Bill	8
Energy Legislation (Miscellaneous Amendments) Bill	5
Environment Protection (Amendment) Bill	8, 11
Equal Opportunity and Tolerance Legislation (Amendment) Bill	4
Evidence (Document Unavailability) Bill	6
Financial Management (Miscellaneous Amendments) Bill	4
Funerals Bill	9
Gambling Regulations (Further Miscellaneous Amendments) Bill	6
Gambling Regulations (Limitation of Number of Gaming Machines) Bill	11
Guardianship and Administration (Further Amendment) Bill	1

Health Legislation (Infertility Treatment and Medical Treatment) Bill	6
Health Services (Supported Residential Services) Bill	7
Heritage Rivers (Further Protection) Bill	8
Human Services (Complex Needs)(Amendment) Bill	9
Infringements Bill	1
Infringements (Consequential and Other Amendments) Bill	5
Interpretation of Legislation (Further Amendment) Bill	2
Justice Legislation (Further Amendment) Bill	10
Justice Legislation (Further Miscellaneous Amendments) Bill	5
Justice Legislation (Miscellaneous Amendments) Bill	1
Land (Further Miscellaneous) Bill	6
Land (St Kilda Triangle) Bill	2
Liquor Control Reform (Amendment) Bill	1
Long Service Leave (Preservation of Entitlements) Bill	6
Melbourne Sailors' Home (Repeal) Bill	3
Melbourne University (Victorian College of the Arts) Bill	7
Mineral Resources Development (Sustainable Development) Bill	8
Murray-Darling Basin (Further Amendment) Bill	9
National Parks and Crown Land (Reserves) Acts (Amendment) Bill	6
National Parks (Otways and Other Amendments) Bill	2, 5
Owners Corporations Bill	8, 11
Planning and Environment (Growth Areas Authority) Bill	5
Primary Industries Acts (Miscellaneous Amendments) Bill	5
Public Sector Acts (Further Workplace Protection and Other Matters) Bill	10
Public Sector Employment (Award Entitlements) Bill	2
Retail Leases (Amendment) Bill	2
Road Legislation (Projects and Road Safety) Bill	10
Road Safety (Drugs) Bill	3
Sentencing (Suspended Sentences) Bill	10
Serious Sex Offenders Monitoring (Amendment) Bill	12
Snowy Hydro Corporatisation (Parliamentary Approval) Bill	7
State Taxation Legislation (Miscellaneous Amendment) Bill	10
State Taxation (Reductions and Concessions) Bill	6
State Taxation Legislation Amendment (Housing Affordability) Bill	1*
Statute Law (Further Revision) Bill	3
Surveillance Devices (Workplace Privacy) Bill	9
Sustainable Forests (Timber)(Amendment) Bill	3
Terrorism (Community Protection)(Amendment) Bill	1, 2
Terrorism (Community Protection)(Further Amendment) Bill	4
Transfer of Land (Alpine Resorts) Bill	5
Transport Legislation (Further Amendment) Bill	6, 8
Transport Legislation (Safety Investigations) Bill	1
Transport (Taxi-Cab Accreditation and Other Amendments) Bill	8, 10
Valuation of Land (Amendment) Bill	3, 5
Victims' Charter Bill	7
Victorian Renewable Energy Bill	8
Victorian Urban Development Authority (Amendment) Bill	5
Victoria Racing Club Bill	6
Water (Governance) Bill	9

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\* Alert Digest No. 1 of 2006 (56<sup>th</sup> Parliament)



**Tabling dates****55<sup>th</sup> Parliament**

Alert Digest No. 1	7 February 2006
Alert Digest No. 2	28 February 2006
Alert Digest No. 3	28 March 2006
Alert Digest No. 4	2 May 2006
Alert Digest No. 5	30 May 2006
Alert Digest No. 6	13 June 2006
Alert Digest No. 7	18 July 2006
Alert Digest No. 8	8 August 2006
Alert Digest No. 9	22 August 2006
Alert Digest No. 10	12 September 2006
Alert Digest No. 11	3 October 2006
Alert Digest No. 12	4 October 2006

**56<sup>th</sup> Parliament**

Alert Digest No. 1	20 December 2006
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## **Appendix 2**

### **Committee Comments classified by Terms of Reference**

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#### **Alert Digest Nos.**

#### **Section 17(a)**

##### **(i) trespasses unduly upon rights or freedoms**

Aboriginal Heritage Bill	4
Catchment and Land Protection (Further Amendment) Bill	8
Coroners and Human Tissue Acts (Amendment) Bill	8
Crimes (Sexual Offences) Bill	1
Electoral and Parliamentary Committees Legislation (Amendment) Bill	6
Serious Sex Offenders Monitoring (Amendment) Bill	12
Terrorism (Community Protection)(Amendment) Bill	1

##### **(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers**

Public Sector Acts (Further Workplace Protection and Other Matters) Bill	10
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##### **(iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions**

Justice Legislation (Further Miscellaneous Amendments) Bill	5
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##### **(vi) inappropriately delegates legislative power**

Building and Construction Industry Security of Payment (Amendment) Bill	2
Environment Protection (Amendment) Bill	8
Funerals Bill	9
Owners Corporations Bill	8
Road Legislation (Projects and Road Safety) Bill	10
Transport Legislation (Further Amendment) Bill	6
Transport (Taxi-Cab Accreditation and Other Amendments) Bill	8
Valuation of Land (Amendment) Bill	3

##### **(vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny**

Charter of Human Rights and Responsibilities Bill	5
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Justice Legislation (Further Miscellaneous Amendments) Bill	5
Terrorism (Community Protection) (Amendment) Bill	1
Water (Governance) Bill	9

**Section 17(b)**

**(i) and (ii) repeals, alters or varies the jurisdiction of the Supreme Court**

Building and Construction Industry Security of Payment (Amendment) Bill	2
Education and Training Reform Bill	2
Terrorism (Community Protection)(Amendment) Bill	1

## Appendix 3

### Ministerial Correspondence

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Table of Correspondence between the Committee and Ministers during 2006

<b>Bill Title</b>	<b>Minister/ Member</b>	<b>Date of Committee Letter</b>	<b>Date of Minister's Response</b>	<b>Issue Raised in Alert Digest No.</b>	<b>Response Published in Alert Digest No.</b>
National Parks (Otways and Other Amendments) Bill	Environment	19.7.05	10.5.06	8 of 2005	5 of 2006
Retail Leases (Amendment) Bill	Small Business	18.10.05	9.2.06	12 of 2005	2 of 2006
Transport Legislation (Safety Investigations) Bill	Transport	18.10.05	12.12.05	12 of 2005	1 of 2006
Crimes (Family Violence)(Holding Powers) Bill	Attorney-General	15.11.05	1.2.06	13 of 2005	1 of 2006
Terrorism (Community Protection) (Amendment) Bill	Premier	7.2.06	9.2.06	1 of 2006	2 of 2006
Building and Construction Industry Security of Payment (Amendment) Bill	Planning	28.2.06	27.3.06	2 of 2006	4 of 2006
Valuation of Land (Amendment) Bill	Attorney-General Planning	28.3.06	10.5.06	3 of 2006	5 of 2006
Aboriginal Heritage Bill	Aboriginal Affairs	2.5.06	12.5.06	4 of 2006	6 of 2006
Charter of Human Rights and Responsibilities Bill	Attorney-General	30.5.06	3.7.06	5 of 2006	7 of 2006
Justice Legislation (Further Miscellaneous Amendments) Bill	Attorney-General	3.5.06	9.10.06	5 of 2006	1 of 2007

<b>Bill Title</b>	<b>Minister/ Member</b>	<b>Date of Committee Letter</b>	<b>Date of Minister's Response</b>	<b>Issue Raised in Alert Digest No.</b>	<b>Response Published in Alert Digest No.</b>
Electoral and Parliamentary Committees Legislation (Amendment) Bill	Premier	13.6.06	7.8.06	6 of 2006	9 of 2006
Transport Legislation (Further Amendment) Bill	Transport	13.6.06	18.7.06	6 of 2006	8 of 2006
Catchment and Land Protection (Further Amendment) Bill	Environment	8.8.06	4.9.06	8 of 2006	10 of 2006
Coroners and Human Tissue Acts (Amendment) Bill	Attorney-General Health	8.8.06	16.8.06	8 of 2006	9 of 2006
Environment Protection (Amendment) Bill	Environment	8.8.06	12.9.06	8 of 2006	11 of 2006
Owners Corporations Bill	Planning	8.8.06	14.9.06	8 of 2006	11 of 2006
Transport (Taxi-Cab Accreditation and Other Amendments) Bill	Transport	8.8.06	5.9.06	8 of 2006	10 of 2006
Funerals Bill	Attorney-General	22.8.06		9 of 2006	
Water (Governance) Bill	Water	22.8.06	31.10.06	9 of 2006	1 of 2007
Public Sector Acts (Further Workplace Protection and Other Matters) Bill	Industrial Relations	13.9.06		10 of 2006	
Road Legislation (Projects and Road Safety) Bill	Transport	13.9.06	3.10.06	10 of 2006	1 of 2007

## Appendix 4

# Committee Reports and Other Papers

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### Chronological Listing of Committee Reports and Other Papers

Reports to Parliament Alert Digest Nos. 1 to 10; Cumulative Report Nos. 1 and 2	March to May 1993
First Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1991	March 1993
Second Report on Subordinate Legislation Port of Melbourne Authority (Transport, Handling and Storage of Dangerous Substances and Oils) Regulations 1992	March 1993
Operation of the Subordinate Legislation Act 1962	March 1993
Commencement by Proclamation	April 1993
First Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Local Government (Reporting and Accounting) Regulations 1993	May 1993
Report by the Honourable B.A.E. Skeggs, MLC Discussions with the Select Committee on the Scrutiny of Delegated Powers, House of Lords, Westminster	October 1993
Third Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1992	October 1993
Review of the Victorian Equal Opportunity Act 1984 Interim Report	October 1993
Report upon an Inquiry into the Operation of the Subordinate Legislation Act 1962	November 1993
Second Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Water (Annual Reporting) (Amendment) Regulations 1993	November 1993
Review of the Victorian Equal Opportunity Act 1984 Final Report	November 1993
Proceedings of the Australasian and Pacific Conference on Delegated Legislation and Scrutiny of Bills, July 1993	November 1993
World Conference on Human Rights, Austria	November 1993

Reports to Parliament Alert Digest Nos. 11 to 20 of 1993	July to November 1993
Fourth Report on Subordinate Legislation Land Tax (Further Amendment) Regulations 1993	March 1994
Scrutiny of Acts and Regulations Committee First Annual Report	April 1994
Reports to Parliament Alert Digest Nos. 1 to 7 of 1994	March to May 1994
Redundant and Unclear Legislation First Report	November 1994
Fifth Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1993	November 1994
Report on the Australian Federalism Conference, July 1994	November 1994
Reports to Parliament Alert Digest Nos. 8 to 14 of 1994	August to November 1994
Sixth Report on Subordinate Legislation Stock (Hormonal Growth Promotants Status Declarations) Regulations 1994	March 1995
Scrutiny of Acts and Regulations Committee Second Annual Report	March 1995
Possible repeal of the Carriers and Innkeepers Act 1966, Discussion Paper	April 1995
Seventh Report on Subordinate Legislation Environment Protection (Scheduled Premises and Exemptions) Regulations 1994	May 1995
Discussion Paper No. 1, Section 85 of the Constitution Act 1975	May 1995
Reports to Parliament Alert Digest Nos. 1 to 8 of 1995	March to June 1995
Discussion paper No. 1 on the Scrutiny of National Scheme Legislation and the Desirability of Uniform Scrutiny Principles	August 1995
Eight Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1994	September 1995
Redundant and Unclear Legislation Review of the Trade Unions Act 1958	November 1995
Redundant and Unclear Legislation Second Report	November 1995
Reports to Parliament Alert Digest Nos. 9 to 14 of 1995	August to November 1995
Review of the Evidence Act 1958 (Vic) and Review of the Role and appointment of Public Notaries	October 1996
Scrutiny of Acts and Regulations Committee Third Annual Report	November 1996



Redundant and Unclear Legislation Review of the Hire Purchase Act 1959	December 1996
Redundant and Unclear Legislation Review of Unlawful Assemblies and Processions Act 1958, Issues Paper	December 1996
Abalone – Taking Stock – Information Paper Review of the Fisheries (Abalone) Regulations 1996 under the Subordinate Legislation Act 1994	December 1996
Reports to Parliament Alert Digest Nos. 1 to 10 of 1996	March 1997
Scrutiny of Acts and Regulations Committee Fourth Annual Report	April 1997
Ninth Report on Subordinate Legislation Annual Report Concerning Statutory Rules Series 1995 and 1996	May 1997
Redundant and Unclear Legislation Third Report	December 1997
Reports to Parliament Alert Digest Nos. 1 to 12 of 1997	December 1997
Redundant and Unclear Legislation Review of the Carriers and Innkeepers Act 1958	May 1998
Tenth Report on Subordinate Legislation Annual Report Concerning Statutory Rules Series 1997	May 1998
Scrutiny of Acts and Regulations Committee Fifth Annual Report	May 1998
The Right to Silence: An Examination of the Issues, Discussion Paper	June 1998
Reports to Parliament Alert Digests Nos. 1 to 8 of 1998	December 1998
Inquiry into the Right to Silence, Final Report	March 1999
Scrutiny of Acts and Regulations Committee Sixth Annual Report	May 1999
Eleventh Report on Subordinate Legislation Annual Report concerning Statutory Rules Series 1998	May 1999
Redundant and Unclear Legislation Review of the Unlawful Assemblies and Processions Act 1958	May 1999
Reports to Parliament Alert Digests Nos. 1 to 6 of 1999	September 1999
Redundant and Unclear Legislation Review of the Constitutional Convention Act 1972	May 2000
Report on the Statute Law Revision Bill	October 2000
Inquiry into the Subordinate Legislation Act 1994, Discussion Paper	November 2000

Reports to Parliament Alert Digests Nos. 1 to 11 of 2000	February 2001
Scrutiny of Acts and Regulations Committee Annual Review 2000	February 2001
Committee Newsletter No. 1	March 2000
Annual Review 2000, Regulations 1999 and 2000	April 2001
Redundant and Unclear Legislation Inquiry into the Summary Offences Act 1966, Discussion Paper	May 2001
Report on an Interim Privacy Code for Members of the Victorian Parliament	May 2001
Committee Newsletter No. 2	August 2001
Privacy Code for Members of the Victorian Parliament, Frequently Asked Questions and Compliance Checklist	October 2001
Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the National Crime Authority (State Provisions) Act 1984 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	November 2001
Redundant and Unclear Legislation Inquiry into the Summary Offences Act 1966, Final Report	November 2001
Reports to Parliament Alert Digests Nos. 1 to 13 of 2001	February 2002
Scrutiny of Acts and Regulations Committee Annual Review 2001	February 2002
Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	February 2002
Final Report on a Privacy Code of Conduct for Members of the Victorian Parliament	March 2002
Report on the Statute Law (Further Revision) Bill	March 2002
Review of the Vagrancy Act 1966, Discussion Paper	April 2002
Improving Victoria's Parliamentary Committee System	May 2002
Parliamentary Review of ANZAC Day Laws, Discussion Paper	June 2002
Committee Newsletter No. 3	July 2002
Inquiry into Electronic Democracy, Discussion Paper	September 2002
Review of the Vagrancy Act 1966, Final Report	September 2002
Inquiry into the Subordinate Legislation Act 1994	September 2002
Annual Review 2001, Regulations 2001	October 2002
Parliamentary Review of ANZAC Day Laws, Report	October 2002
Reports to Parliament Alert Digests Nos. 1 to 9 of 2002	April 2003

Annual Review 2002	August 2003
Annual Review 2002, Regulations 2002	November 2003
Discrimination in the Law, Discussion Paper	December 2003
Reports to Parliament Alert Digests Nos. 1 to 9 of 2003	February 2004
Annual Review 2003	May 2004
Annual Review 2003, Regulations 2003	May 2004
Victorian Electronic Democracy, Discussion Paper	November 2004
Redundant and Unclear Legislation, Report concerning the Maintenance Act 1965, Marriage Act 1958 and the Perpetuities and Accumulations Act 1968	November 2004
Victorian Electronic Democracy, Report on Evidence Obtained in North America – August 2004	November 2004
Discrimination in the Law, Progress Report: Summary of Submissions, Statutory Compliance Defences and Human Rights Protections	December 2004
Report on the Statute Law Revision Bill	February 2005
Reports to Parliament Alert Digests Nos. 1 to 11 of 2004	March 2005
Annual Review 2004	March 2005
Annual Review 2004, Regulations 2004	May 2005
Victorian Electronic Democracy, Final Report	May 2005
Discrimination in the Law, Interim Report	June 2005
Discrimination in the Law, Final Report	September 2005
Reports to Parliament Alert Digests Nos. 1 to 13 of 2005	March 2006
Annual Review 2005	March 2006
Report on the Statute Law (Further Revision) Bill	March 2006
Annual Review 2005, Regulations 2005	July 2006
Reports to Parliament Alert Digests Nos. 1 to 12 of 2006	November 2006
Report on the Statute Law Repeals Bill 2006	April 2007
Report on the Statute Law Revision Bill 2006	May 2007



# **Appendix 5**

## **Regulations considered in 2006**

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### **STATUTORY RULES SERIES 2005**

#### **Regulation Impact Statements**

- SR No. 122 – Agricultural and Veterinary Chemicals (Control of Use)(Fertilisers) Regulations 2005
- SR No. 128 – Public Transport Competition (Fees) Regulations 2005
- SR No. 132 – Metropolitan Fire Brigades (General) Regulations 2005
- SR No. 135 – Non-Emergency Patient Transport Regulations 2005
- SR No. 136 – Transport (Tow Trucks) Regulations 2005
- SR No. 141 – Charities Regulations 2005
- SR No. 150 – Fisheries (Aquaculture Fees and Levies) Regulations 2005
- SR No. 151 – Domestic (Feral and Nuisance) Animals Regulations 2005
- SR No. 154 – Marine (Personal Flotation Devices and Other Safety Equipment) Regulations 2005
- SR No. 164 – Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005

#### **Section 8(1)(a) – Fee Increases**

- SR No. 130 – Adoption (Fees) Regulations 2005
- SR No. 142 – National Parks (Fees and Charges)(Amendment) Regulations 2005
- SR No. 163 – Transfer of Land (Fees)(Amendment) Regulations 2005

#### **Section 8(1)(b) – Court Rules**

- SR No. 125 – Supreme Court (Chapter 1 Amendment No. 29) Rules 2005
- SR No. 133 – Supreme Court (Adoption) Rules 2005
- SR No. 147 – Supreme Court (Legal Profession References Amendment) Rules 2005
- SR No. 148 – Supreme Court (General Civil Procedure) Rules 2005
- SR No. 165 – Magistrates’ Court Civil Procedure (Amendment No.14) Rules 2005
- SR No. 166 – Magistrates’ Court (Judicial Registrars) Rules 2005
- SR No. 167 – County Court (Chapter 1 Amendment No.17) Rules 2005
- SR No. 168 – County Court (Chapter 1 Amendment No.18) Rules 2005

#### **Section 8(1)(c) – Land Tax (Equalisation Factors)**

There were no statutory rules made under this section in 2005.

**Section 8(1)(d)(iii) – Extension of Operation**

- SR No. 134 – Subordinate Legislation (Livestock Disease Control Regulations 1995 – Extension of Operation) Regulations 2005
- SR No. 146 – Subordinate Legislation (Water Industry Regulations 1995 – Extension of Operation) Regulations 2005
- SR No. 153 – Subordinate Legislation (Trade Measurement Regulations 1995 – Extension of Operation) Regulations 2005
- SR No. 157 – Subordinate Legislation (Estate Agents (Fees) Regulations 1996- Extension of Operation) Regulations 2005
- SR No. 161 – Subordinate Legislation (Guardianship and Administration Board (Fees) Regulations 1996 –Extension of Operation) Regulations 2005

**Section 9(1)(a) – No Appreciable Economic or Social Burden**

- SR No. 124 – Firearms (Amendment) Regulations 2005
- SR No. 145 – Road Safety (Vehicles)(Registration Renewal) Regulations 2005
- SR No. 155 – Marine (Infringements) Regulations 2005
- SR No. 158 – Electricity Safety (Network Assets)(Amendment) Regulations 2005
- SR No. 159 – Livestock Disease Control (Amendment) Regulations 2005
- SR No. 160 – Agricultural and Veterinary Chemicals (Control of Use)(Ruminant Feed) Regulations 2005
- SR No. 169 – Estate Agents (Exemption) Regulations 2005
- SR No. 170 – Liquor Control Reform (Prescribed Substance) Regulations 2005
- SR No. 172 – Conservation, Forests and Lands (Infringement Notice)(Royal Botanic Gardens) Regulations 2005
- SR No. 173 – Firearms (Further Amendment) Regulations 2005
- SR No. 175 – Transport (Rail Safety)(Amendment) Regulations 2005
- SR No. 176 – Road Safety (Road Rules)(Emergency Vehicles) Regulations 2005
- SR No. 177 – Road Safety (Vehicles)(Emergency Vehicles) Regulations 2005
- SR No. 178 – Land Tax Regulations 2005

**Section 9(1)(b) – National Uniform Legislation Scheme**

- SR No. 131 – Electricity Safety (Equipment Efficiency)(Amendment) Regulations 2005

**Section 9(1)(c) – Of a Fundamentally Declaratory or Machinery Nature**

- SR No. 127 – Mental Health (Amendment) Regulations 2005
- SR No. 137 – Transport (Infringements)(Tow Truck) Regulations 2005
- SR No. 138 – Transport (Alcohol Controls) Regulations 2005
- SR No. 149 – Legal Practice (Admission)(Amendment) Rules 2005
- SR No. 162 – Retirement Villages (Records and Notices) Regulations 2005

**Section 9(1)(d) – Administration Between Departments**

- SR No. 174 – Public Administration (Review of Actions) Regulations 2005

## EXCEPTIONS AND EXEMPTIONS UNDER COMBINED SECTIONS

### Section 9(1)(a) and (b) – No Appreciable Economic or Social Burden and National Uniform Legislation Scheme

SR No. 152 – Legal Profession Regulations 2005

### Section (9)(a) and (c) – No Appreciable Economic or Social Burden and Fundamentally Declaratory or Machinery Nature

SR No. 123 – Fisheries (Miscellaneous Amendments) Regulations 2005

SR No. 126 – Road Safety (General)(Heavy Vehicle Safety) Regulations 2005

SR No. 129 – Road Safety (Road Rules)(Amendment) Regulations 2005

SR No. 139 – Children and Young Persons (Children’s Court) (Amendment) Regulations 2005

SR No. 140 – Melbourne City Link (General)(Amendment) Regulations 2005

SR No. 143 – Food (Forms and Registration) Regulations 2005

SR No. 156 – Police (Special Constables Revocation) Regulations 2005

SR No. 171 – Liquor Control Reform (Prohibited Supply) Regulations 2005

### Section 9(1)(b) and (d) – National Uniform Legislation Scheme and Administration Between Departments

SR No. 144 – Transport (Ticketing and Conduct)(Amendment) Regulations 2005

## STATUTORY RULES SERIES 2006

### Regulation Impact Statements

SR No. 3 – Prevention of Cruelty to Animals (Amendment) Regulations 2006

SR No. 17 – Fisheries (Fees, Levies and Royalties) Regulations 2006

SR No. 29 – Working with Children Regulations 2006

SR No. 37 – Geothermal Energy Resources Regulations 2006

SR No. 38 – Gambling Regulation (Commercial Raffle Organisers) Regulations 2006

SR No. 49 – National Parks (Cape Howe Marine National Park) Regulations 2006

SR No. 57 – Drugs, Poisons and Controlled Substances Regulations 2006

SR No. 59 – Environment Protection (Ships’ Ballast Water) Regulations 2006

SR No. 60 – Planning and Environment (Fees)(Further Amendment) Regulations 2006

SR No. 61 – Births, Deaths and Marriages Registration (Fees) Regulations 2006

## EXCEPTIONS UNDER SECTION 8

### Section 8(1)(a) – Fees Increases

SR No. 2 – Planning and Environment (Fees)(Amendment) Regulations 2006

SR No. 42 – Country Fire Authority (Charges) Regulations 2006

SR No. 51 – Chattel Securities (Fees) Regulations 2006

SR No. 52 – Road Safety (Drivers)(Fees) Regulations 2006

SR No. 53 – Road Safety (Vehicles)(Fees) Regulations 2006

SR No. 67 – Transfer of Land (Fees)(Further Amendment) Regulations 2006

SR No. 79 – Plumbing (Fees) Regulations 2006

### **Section 8(1)(b) – Court Rules**

SR No. 26 – Magistrates’ Court General (Infringements) Regulations 2006

SR No. 30 – Magistrates’ Court (Arbitration)(Professional Costs) Regulations 2006

SR No. 43 – Supreme Court (Chapter I Amendment No.1) Rules 2006

SR No. 44 – Supreme Court (Chapter V Amendment No.2) Rules 2006

SR No. 54 – Victorian Civil and Administrative Tribunal (Amendment No.16) Rules 2006

SR No. 55 – Magistrates’ Court (Criminal Procedure) Rules 2006

SR No. 69 – Magistrates’ Court (Outworkers) Rules 2006

SR No. 72 – Magistrates’ Court (Criminal Procedure) (Amendment) Rules 2006

SR No. 83 – Magistrates’ Court (Family Violence) (Amendment) Rules 2006

SR No. 87 – Magistrates’ Court Civil Procedure (Amendment No. 15) Rules 2006

### **Section 8(1)(d)(iii) – Extension Of Operation**

SR No. 33 – Subordinate Legislation (Domestic Building Contracts and Tribunal (General) Regulations 1996 – Extension of Operation) Regulations 2006

SR No. 35 – Subordinate Legislation (Extractive Industries Development Regulations 1996 – Extension of Operation) Regulations 2006

SR No. 45 – Subordinate Legislation (Coroners Regulations 1996 – Extension of Operation) Regulations 2006

SR No. 56 – Subordinate Legislation (Environment Protection (Scheduled Premises and Exemptions) Regulations 1996 – Extension of Operation) Regulations 2006

## **EXEMPTIONS UNDER SECTION 9**

### **Section 9(1)(a) – No Economic Burden**

SR No. 1 – Road Safety (Drivers)(Amendment) Regulations 2006

SR No. 5 – Water (Permanent Transfer of Water Rights)(Amendment) Regulations 2006

SR No. 6 – Magistrates’ Court General (Amendment) Regulations 2006

SR No. 10 – Transport (Infringements)(Amendment) Regulations 2006

SR No. 11 – Racing (Racing Appeals Tribunal)(Amendment) Regulations 2006

SR No. 15 – State Superannuation (Amendment) Regulations 2006

SR No. 18 – Magistrates’ Court General (Further Amendment) Regulations 2006

SR No. 20 – Commonwealth Games Arrangements (Games Management Areas) Regulations 2006

SR No. 22 – Road Safety (Road Rules)(Commonwealth Games) Regulations 2006

SR No. 23 – Road Safety (General)(Commonwealth Games) Regulations 2006

SR No. 24 – Commonwealth Games Arrangements (Prescribed Powers and Functions) Regulations 2006

SR No. 25 – Magistrates’ Court General (Further Waiver Amendment) Regulations 2006

SR No. 28 – Fisheries (Amendment) Regulations 2006

SR No. 31 – Magistrates’ Court General (Waiver Periods Further Amendment) Regulations 2006



- SR No. 41 – Plumbing (Certification Marks) Regulations 2006  
 SR No. 46 – Magistrates’ Court General (Fifth Waiver Period Amendment) Regulations 2006  
 SR No. 47 – Wrongs (Part VB)(Dust and Tobacco-Related Claims) Regulations 2006  
 SR No. 48 – Magistrates’ Court General (Specified Agencies) Regulations 2006  
 SR No. 58 – Prevention of Cruelty to Animals (Rodeo Permits) Regulations 2006  
 SR No. 63 – Fisheries (Salmonid) Regulations 2006  
 SR No. 80 – Terrorism (Community Protection)(Chemicals and Substances) Regulations 2006  
 SR No. 81 – Firearms (Amendment) Regulations 2006

### **Section 9(1)(b) – National Uniform**

- SR No. 34 – Electricity Safety (Equipment Efficiency) (Amendment) Regulations 2006

### **Section 9(1)(c) – Fundamentally Declaratory**

- SR No. 4 – Residential Tenancies (Infringement Penalties) Regulations 2006  
 SR No. 8 – Mineral Resources Development (Amendment) Regulations 2006  
 SR No. 9 – Transport (Passenger Vehicles)(Amendment) Regulations 2006  
 SR No. 14 – Corrections (Amendment) Regulations 2006  
 SR No. 27 – Legal Profession (Board Election) Regulations 2006  
 SR No. 32 – Credit (Administration)(Committee) Regulations 2006  
 SR No. 36 – Trustee Companies Regulations 2006  
 SR No. 71 – Gambling Regulation (Infringement Offences) Regulations 2006

### **Section 9(1)(a) – No Economic Burden and Section 9(1)(c) – Fundamentally Declaratory**

- SR No. 7 – Human Tissue Regulations 2006  
 SR No. 12 – Fisheries (Abalone) Regulations 2006  
 SR No. 13 – Liquor Control Reform (Amendment) Regulations 2006  
 SR No. 16 – Drugs, Poisons and Controlled Substances (Amendment)(Nurse Practitioners – Palliative Care) Regulations 2006  
 SR No. 21 – Tobacco (Amendment) Regulations 2006  
 SR No. 39 – Mental Health (Forms and Patient’s Rights) Regulations 2006  
 SR No. 40 – Tobacco (Victorian Health Promotion Foundation) Regulations 2006  
 SR No. 50 – Human Tissue (Removal of Tissue) Regulations 2006  
 SR No. 65 – Environment Protection (Vehicle Emissions) (Amendment) Regulations 2006  
 SR No. 70 – Drugs, Poisons and Controlled Substances (Volatile Substances)(Extension of Provisions) Regulations 2006  
 SR No. 73 – Surveillance Devices Regulations 2006  
 SR No. 74 – Crimes (Assumed Identities) Regulations 2006  
 SR No. 75 – Infringements (Reporting and Prescribed Details and Forms) Regulations 2006  
 SR No. 77 – Evidence (Witness Identity Protection) Regulations 2006  
 SR No. 78 – Crimes (Family Violence)(Amendment) Regulations 2006

### **Section 9(3) – Premier's Certificate**

- SR No. 19 – Legal Profession (Practising Certificate Fees)(Interim) Regulations 2006



# Appendix 6

## Practice Notes

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### Practice Note No. 1

*The Committee adopted the following Practice Note on 17 October 2005.*

The Practice Note advises legal and legislation officers of the Committee's expectations in respect to information that should be provided to the Parliament concerning provisions in Bills that test or invoke the Committee's terms of reference.

In its scrutiny of Bills the Committee may initially make an adverse report to Parliament in its Alert Digest in respect to a number of legislative practices included in a Bill that appear to test or invoke the Committee's terms of reference in section 17 of the *Parliamentary Committees Act 2003* (the 'Act').

Where the Committee makes an initial adverse comment it will draw the provision to the attention of Parliament and will note that further advice will be sought from the responsible Minister. The Minister's response is published in the next Alert Digest upon receipt. To avoid needless Ministerial correspondence the Committee strongly prefers that explanatory material be provided at the time a Bill is introduced in Parliament in either the Second Reading Speech and or the explanatory memorandum.

Provisions frequently of concern to the Committee include –

#### 1.1 Unexplained Retrospective Provisions

Where a Bill contains a provision that has retrospective operation (deeming, validating or backdated to the time of an announcement or 'press release') the Committee would expect that the Parliament will be provided with an explanation why it is desirable or necessary for the provision to be retrospective. The explanation should include the reason why a specific retrospective date is chosen, and provide sufficient information whether the retrospectivity may detrimentally affect any person. Where there is insufficient information provided to the Parliament, the grounds for an initial adverse report by the Committee will be that such a provision may constitute an undue trespass to rights and freedoms within the meaning of section 17(a)(i) of the Act.

#### 1.2 Unexplained Wide Delegation of Powers and Functions Provisions

Where a Bill provides for a delegation of powers or functions in wide or unlimited terms, such as a delegation to 'any person', the Committee expects that Parliament will be informed as to the reasons why it is desirable or necessary to employ such a wide or unlimited delegation of powers. Where there is insufficient information provided to the Parliament the grounds for an initial adverse report by the Committee will be that such a provision may make rights, freedoms or obligations

dependent upon insufficiently defined administrative powers within the meaning of section 17(a)(ii) of the Act.

### 1.3 Unexplained Commencement by Proclamation or Delayed Commencement in excess of 12 months

Where a Bill provides for the commencement of an Act by proclamation and no forced commencement provision is provided OR where the commencement is more than 12 months from Royal Assent, the Committee expects that Parliament will be informed as to the reasons why it is desirable or necessary to employ such a commencement provision. Where there is insufficient information provided to the Parliament, the grounds for any initial adverse report by the Committee will be that such a provision may constitute an inappropriate delegation of legislative power within the meaning of section 17(a)(vi) of the Act.

### 1.4 Insufficient or Unhelpful Explanatory Material

The Committee will write to Ministers where, in the Committee's opinion, explanatory material (clause notes and/ or the Second Reading Speech) are unhelpful in describing the purpose or effect of a key provision. On one occasion the Committee noted a clause note concerning professional disciplinary matters stated that '*Clause 3 amends section 23*'. The Committee considers that there would be very few, if any, circumstances where such brevity could be appropriately characterised as 'explanatory'. The Committee considers that clause notes are critical, particularly where the provision deletes or substitutes certain words in a section where it would be problematic comprehending the amendment in its full context without some aide memoir as to its purpose and intent.

The Committee endorses the following remarks from a recent report of the Senate Standing Committee for the Scrutiny of Bills –

*The committee relies on the explanatory memorandum to explain the purpose and effect of the associated bill and the operation of its individual provisions. In particular, the committee expects that an explanation will be given for any provision within a bill that appears to test or infringe the committee's terms of reference and provide reasons or justification for this.*

*\*Senate Standing Committee for the Scrutiny of Bills – "The Quality of Explanatory Memoranda Accompanying Bills, 24 March 2004"*

In particular the Committee will comment on deficient or inaccurate explanatory material provided in respect to the following types of legislative provisions –

- Powers of arrest, detention and deprivation of liberty
- Search and seizure powers without judicial warrant
- Creation of strict or absolute liability offences
- Reversal of onus of proof in criminal (or civil penalty) offences
- Abridgment of the right to silence or the privilege against self-incrimination
- Freedom of communication, assembly, movement, association, religion or conscience
- Infringement of the right to vote
- Denial of or failure to advise of, judicial or merits review of administrative decisions
- Denial or abridgment of the principle of 'fair trial' or the principles of natural justice
- Acquisition of property without adequate compensation
- Privacy of information and health records

- Inappropriately delegates legislative power (ie. allow regulations to alter the provisions of an Act, or allow regulations to establish a tax (as distinct from a fee for service or penalty)).

The grounds for an adverse report where an explanatory memorandum is plainly deficient or inadequate is that such a provision may test or invoke one or more of the Committee's terms of reference.

**Committee Room**  
**17 October 2005**