

*Sixty-third Report — “Information Report in relation to: Children’s Court (Fees) Amendment Regulations (No. 2) 2012, Civil Judgments Enforcement Amendment Regulations 2012, Coroners Amendment Regulations 2012, District Court (Fees) Amendment Regulations (No. 3) 2012, Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations (No. 2) 2012, Magistrates Court (Fees) Amendment Regulations (No. 3) 2012, State Administrative Tribunal Amendment Regulations (No. 3) 2012, Supreme Court (Fees) Amendment Regulations (No. 3) 2012” — Tabling*

**MR P. ABETZ (Southern River)** [10.27 am]: I present for tabling the sixty-third report of the Joint Standing Committee on Delegated Legislation, an information report in relation to eight instruments seeking to increase court and related fees by the consumer price index.

[See paper 798.]

**Mr P. ABETZ:** When similar instruments came before the committee in 2012, the committee took issue with the inadequate level of financial information that had been given by the Department of the Attorney General to justify the increase in fees. To enable the committee to properly perform its scrutiny function, it must receive enough information to demonstrate to the committee’s satisfaction that each fee is at or below cost recovery. This information is especially vital when the empowering legislation does not authorise any of the fees covered by the eight instruments to be a tax.

Part of the committee’s concern is the level at which the department assesses its costs—at the registry or whole-of-court level. This does not enable any assessment of whether individual fees are at or below cost recovery. Nevertheless, the committee decided not to recommend disallowance in the other place in 2012 to give the Department of the Attorney General the opportunity to complete a project being conducted at the District Court to assess whether the department could cost individual fees and link these to services.

Unfortunately, the committee is again, this year, being put in the same position—it does not have enough information to perform its role. An audit of the results of the District Court project by Deloitte, referred to in paragraphs 4.10 to 4.12 of the report, revealed the project had several significant deficiencies in the costing model that made it incapable of being used to cost individual fees. Accordingly, the department does not have an effective costing methodology to demonstrate that each fee imposed is at or below cost recovery. In addition, the termination of this project by the department has deprived it of the opportunity to provide a sufficient level of financial detail to demonstrate cost recovery. The committee is concerned that this lack of sufficient data is making it impossible for the Parliament and the people of Western Australia to be assured that each fee they are being charged for access to and use of the justice system is not recovering more than the cost of administering the services, which are the subject of the fees, and is not a tax. The committee has highlighted in its report what appears to be a number of instances of over-recovery, such as \$1.50 a page for photocopying. The committee accepted the department’s evidence that it would take a significant investment in human and financial resources to address the deficiencies identified by the auditor; and the cost recovery rates of Court and Tribunal Services rendered at the level assessed by the department are at approximately 20 to 30 per cent. The committee notes that the costs of the justice system are heavily subsidised by the government, and it is a government policy decision at what level to set court fees and whether to expend financial and human resources on developing a proper costing methodology on the continuing operation of the justice system. Any disallowance of these fee instruments in the other place would revive the previous regulations, resulting in the department being unable to rely upon consumer price index increases to increase fees. This would have financial implications for the justice system. Therefore, the committee has decided not to recommend disallowance of these instruments in the other place. However, it has recommended that the department address the deficiencies identified by Deloitte in its audit report, and develop a robust and defensible costing methodology for the benefit of the Parliament and the people of Western Australia. The committee will maintain, on behalf of Parliament, a close watching brief on these types of fees.