WESTERN AUSTRALIA
LEGISLATIVE ASSEMBLY

STANDING COMMITTEE ON
UNIFORM LEGISLATION AND
INTERGOVERNMENTAL AGREEMENTS

COMMITTEE REPORT
OF ACTIVITIES

November 1996 - October 1999
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COMMITTEE REPORT
OF ACTIVITIES

November 1996 - October 1999

Presented by:
Hon. K.J. Minson, MLA
Laid on the Table of the Legislative Assembly
on 28 October 1999

ORDERED TO BE PRINTED
Committee Members

Chairman
Hon. K.J. Minson, MLA
(Member for Greenough)

Deputy Chairman
Mr F. Riebeling, MLA
(Member for Burrup)

Members
Mr E.J. Cunningham, MLA
(Member for Girrawheen)

Ms M.R. Holmes, MLA
(Member for Southern River)

Mr W.J. McNee, MLA
(Member for Moore)

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Terms of Reference

On Wednesday, 4 August 1993 the Legislative Assembly established the Standing Committee on Uniform Legislation and Intergovernmental Agreements.

On Tuesday, 18 March 1997 the Legislative Assembly re-established the Standing Committee on Uniform Legislation and Intergovernmental Agreements with the following terms of reference -

(1) That a Standing Committee be established for the duration of the 35th Parliament to inquire into, consider and report on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes involving the Commonwealth, States and Territories, or any combination of States and Territories without the participation of the Commonwealth.

(2) When considering draft agreements and legislation, the Committee shall use its best endeavours to meet any time limits notified to the Committee by the responsible Minister.

(3) The Committee shall consider and, if the Committee considers a report is required, report on any matter within three months; but if it is unable to report in three months, it shall report its reasons to the Assembly.

(4) Each member, while otherwise qualified, shall continue in office until discharged, notwithstanding any prorogation of the Parliament.

(5) No member may be appointed or continue as a member of the Committee if that member is a Presiding Officer or a Minister of the Crown.

(6) When a vacancy occurs on the Committee during a recess or a period of adjournment in excess of 2 weeks the Speaker may appoint a member to fill the vacancy until an appointment can be made by the Assembly.

(7) The Committee has power to send for persons and papers, to sit on days over which the House stands adjourned, to move from place to place, to report from time to time, and to confer with any committee of the Legislative Council which is considering similar matters.

(8) If the Assembly is not sitting, a report may be presented to the Clerk of the Legislative Assembly who shall thereupon take such steps as are necessary and appropriate to publish the report.

(9) In respect of any matter not provided for in this resolution, the Standing Orders and practices of the Legislative Assembly relating to Select Committees shall apply.
Chairman’s Foreword

This is the fourth Annual Report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements.

The Terms of Reference of the Standing Committee allow the Committee to inquire into, consider and report to the Legislative Assembly on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes.

The Standing Committee was re-established on 18 March 1997 by the Legislative Assembly. The new Committee has been very busy and has investigated matters referred to it as well as initiating a number of inquiries. The Committee has tabled a number of reports on various subject matters. These range from changes to harmonise substantive law including the law of evidence as well as the co-operatives law, to facilitate bank mergers and reforms to the financial system. The Committee has also tabled reports dealing with the subject of uniform legislation, with Ministerial Councils and with the impact of the implementation of National Competition Policy.

The Standing Committee’s work has been recognised in a number of forums and the Committee has been invited to participate in a number of conferences and seminars. The work of the Committee has also led to a number of overseas and interstate parliamentary delegations meeting with the Committee to discuss matters of mutual interest.

A parliamentary delegation from the German Upper House met with the Committee in Perth to discuss the ongoing work of the Committee. The Committee has also been invited to participate in interparliamentary forums dealing with uniform legislation and treaty making and the role of the States.

I want to express my sincere thanks to all my fellow Committee members for their support and contribution to the Committee’s work during this period. In particular, I would like to thank the Committee’s staff for their professional work and responsible attitude which has allowed the Standing Committee to produce consistently high quality reports resulting in the Standing Committee receiving national and international recognition for its work. Melina Newnan, the Legal/Research Officer, has provided the Committee with considerable expertise and is an efficient and dedicated officer. Peter Frantom the Clerk to the Committee I wish to especially thank for his expert procedural advice and efficient administrative skills. The Committee also wishes to thank Pat Roach, Secretary/Committees, for her assistance in producing the Committee’s reports.

I commend the report to House.

HON. K.J. MINSON, MLA
CHAIRMAN
# OVERVIEW OF ACTIVITIES

During Reporting Period from November 1996 - October 1999

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Report of the Standing Committee
Chapter 1. Introduction

1.1 Establishment of the Committee

The Legislative Assembly established the Standing Committee on Uniform Legislation and Intergovernmental Agreements on Wednesday, 4 August 1993. The Standing Committee was established as a result of a recommendation of the Select Committee on Parliamentary Procedures for Uniform Legislation Agreements.¹

On Tuesday, 18 March 1997 the Legislative Assembly re-established the Standing Committee on Uniform Legislation and Intergovernmental Agreements.

1.2 The Committee

The present Committee is comprised of -

Hon. K.J. Minson, MLA (Member for Greenough) - Chairman
Mr F. Riebeling, MLA (Member for Burrup) - Deputy Chairman
Mr E.J. Cunningham, MLA (Member for Girrawheen)
Ms M.R. Holmes, MLA (Member for Southern River) who replaced
Mr R.N. Sweetman, MLA (Member for Ningaloo) who was discharged from the Committee on 28 May 1997.
Mr W.J. McNee, MLA (Member for Moore) who replaced
Mr D.F. Barron-Sullivan (Member for Mitchell) who was discharged from the Committee on 7 May 1998.

The current Committee replaced the former Committee after the State election on 14 December 1996.

The original Standing Committee was appointed in 1993 with Mr A.K.R. Prince (Member for Albany) as Chairman and Dr E. Constable (Member for Floreat) as Deputy Chairman. Upon Mr Prince’s appointment to Cabinet on 25 January 1994 he was replaced by Hon P.G. Pendal (Member for South Perth) who became Chairman on 8 February 1994. On 29 September 1995 Mr R.F. Johnson (Member for Whitford) was replaced by Mr J.H.D. Day (Member for Darling Range). Other members of the original Standing Committee included Mr R.C. Bloffwitch, MLA (Member for Geraldton) and Mr F. Riebeling, MLA (Member for Ashburton).

¹Select Committee on Parliamentary Procedures for Uniform Legislation Agreements Report, Legislative Assembly, Western Australia, 1992.
1.3 Profile of Members

Hon. Kevin John MINSON, BDSc (WA) JP, MLA (Chairman)
Member for Greenough
Liberal Party Member

Born 5 May 1947 at Port Hedland, Western Australia. Educated at Mingenew State School, Hale School Perth and the University of Western Australia.

Parliamentary Service

Elected to the Thirty-third Parliament for Greenough on 4 February 1989 in succession to Reginald John Tubby (retired). Re-elected 1993, 1996. Mr Minson was involved in the pastoral and farming industries prior to entering Parliament. He retains an interest in Agriculture and is the managing partner in the family farming property east of Dongara in the Mid-West of Western Australia. Mr Minson has also practised as a Dental Surgeon.

Ministerial Appointments


Shadow Ministerial Appointments


Standing Committees

Chairman Standing Committee on Uniform Legislation and Intergovernmental Agreements from 18 March 1997.
Select Committees/Royal Commissions


Parliamentary Party Positions


Mr Fredrick RIEBELING, MLA (Deputy Chairman)
Member for Burrup
Labor Party Member

Born 29 January 1953, in Bridgetown. Mr Riebeling was the Managing Registrar at the Karratha Court and Shire President of the Shire of Roebourne prior to his entering Parliament as the MLA for Ashburton.

Parliamentary Service


Shadow Ministerial Positions


Standing Committees

Member Public Accounts and Expenditure Review Committee 22 June 1993 – 5 April 1994; and Standing Committee on Uniform Legislation and Intergovernmental Agreements from 4 August 1993.

Select Committees/Royal Commission

Commonwealth Parliamentary Association Conferences, delegations, etc

Represented WA branch Commonwealth Parliamentary Association at the 22nd Australasian and Pacific Regional Conference, Sydney, August 1993.

Mr Ted CUNNINGHAM, MLA
Member for Girrawheen
Labor Party Member

Born 26 November 1937, Clayfield, Brisbane, Queensland. Educated at St Joseph's Primary School, Hendra Secondary School and Brisbane Technical College.

Parliamentary Service


Standing Committees


Select Committees/Royal Commissions


Parliamentary Party Appointments

Mrs Monica HOLMES, Grad Cert Mgt, M.AuSAE, JP, MLA
Member for Southern River
Liberal Party Member

Born 25 June 1944 in the UK, Mrs Holmes and her family arrived in Western Australia in 1983.

Prior to entering Parliament as the MLA for Southern River in December 1996, Mrs Holmes’ experience included that of a self-employed business proprietor, an Executive Officer at the Chamber of Commerce and Industry and a relief and permanent Electorate Officer for various Members of Parliament.

From 1988 to 1991 Mrs Holmes served as a Councillor on the City of Canning. During that time she was elected Chairperson of the Community Services Committee and also represented Council on the Local Government Association and the South-East District Planning Committee.

In 1988 Mrs Holmes was appointed as an Area Co-ordinator for Neighbourhood Watch. She also wrote a voluntary weekly column on Crime Prevention and Neighbourhood Watch for the Community Newspaper Group from 1991 to 1996.

Mrs Holmes was appointed a Justice of the Peace in 1994 and is a Member of the Royal Association of Justices and the Australian Society of Association Executives. She recently completed her external studies through the University of New England, NSW, where she completed a Graduate Certificate in Management as part of her Master of Business Administration degree.

Parliamentary Service


Parliamentary Appointments

Deputy Chairman of Committees from 20 August 1997.

Standing Committees

Member Public Accounts and Expenditure Review Committee from 11 March 1997; and Standing Committee on Uniform Legislation and Intergovernmental Agreements from 15 May 1997.
Mr John William McNEE, MLA  
Member for Moore  
Liberal Party Member

Born 28 April 1933, Wyalkatchem, Western Australia. Mr McNee has been a successful wheat and sheep farmer in the Wyalkatchem, Koorda/Dowerin area for 37 years. He is married with four children. He has been a Koorda Shire Councillor for 15 years, Deputy President for 4 years and Shire President for 6 years.

Parliamentary Service


Ministerial Appointments


Shadow Ministerial Appointments


Standing Committees

Member Joint House Committee 1989–1990; Standing Committee on Uniform Legislation and Intergovernmental Agreements from 18 May 1998.

Select Committees/Royal Commissions

1.4 Staff and Support Services

The Committee is currently staffed by -

Peter Frantom            Clerk to the Committee, BA  
Melina Newnan            Legal/Research Officer, BA, LLB  

Patricia Roach and Gerda Slany provided secretarial support to the Committee.

Parliamentary debates reporting staff (*Hansard*) recorded the transcripts when evidence was taken by the Committee.
Chapter 2. Committee Operations

2.1 Brief History

The Select Committee on Parliamentary Procedures for Uniform Legislation Agreements was established in June 1992 to look at the process behind the introduction into the Western Australian Parliament of the Financial Institutions (Queensland) Act 1992. Concerns were raised about the process for dealing with the legislation. The main concern was that the Queensland legislation referred to in the Western Australian Bill, was not available to members of the Western Australian Parliament for examination and insufficient time was allowed for consideration of the Bill.

Other concerns raised about the approach used to achieve uniformity were -

- the delegation of many of the powers of the Western Australian Parliament to Ministerial Councils;
- the ability of the Queensland Parliament to enact amendments without reference to the Western Australian Parliament; and finally
- that jurisdiction was conferred on the Supreme Court of Queensland for appeals on questions of law even where the proceeding arose from a matter in Western Australia.

The Select Committee reported to the Legislative Assembly on 27 August 1992. One of its major recommendations was to establish a Standing Committee to inquire into, and report on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes.

2.2 Functions of the Committee

The Standing Committee on Uniform Legislation and Intergovernmental Agreements has several functions. Its primary role is to inquire into and inform the State Parliament about proposed or current uniform legislative schemes and intergovernmental agreements involving the States, Territories and sometimes the Federal Government. Concerns had been raised that such schemes and agreements often impinge upon the sovereignty of the State Parliament. The Committee is charged with scrutinising the substance and structure of these schemes and agreements.

The Committee is interested in establishing a mechanism whereby the Executive Branch of Government informs the Parliament about continuing developments in the unification and harmonisation of Statute Law, hence providing Parliament with an opportunity to raise concerns and have input at the policy development stage. The general aim of the Committee is to establish procedures by which information relating to uniformity in laws will be brought before Parliament in a consistent manner. The Committee is therefore keen to explore the mechanisms employed to bring about harmonisation of laws and ensuring Parliaments in participating jurisdictions are kept informed of the processes.
The Committee has tabled 24 reports. A list of the Committee’s reports are set out in Appendix Ten.

2.3 Definition of Uniform Legislation

Uniform legislation is legislation which is substantially the same in all or a number of jurisdictions. There are a number of ways of achieving national uniform legislation. The Standing Committee has investigated and reported on legislative structures used to achieve the harmonisation of legislation. These are outlined in Appendix Nine of this report.

The Australian States have enacted uniform laws or similar laws over the years. However, as a result of individual State amendments, these laws became less and less uniform over time. Industry has demanded a more unified approach to laws affecting commerce and trade. Globalisation and the need for nations to become economically efficient has led to the harmonisation of laws not only nationally but also internationally.

The expansion of markets from local to domestic and then to the global level have necessitated the harmonisation of laws and regulations connected with a wide variety of issues. This has meant the standardisation at the local, Australian and world level of laws and standards, sometimes on a voluntary basis but sometimes through agreements and legislative measures.

Although Australian States have always moved to standardise laws, a new imperative has immersed with the globalisation of the economy and rapid technological change.

Increasingly the move towards national scheme legislation has evolved a method of law-making which involves Ministers at Ministerial Councils agreeing on national uniform legislation. Ministers at the Federal and State level have established close contacts and work towards agreement on issues within their portfolios. Ministerial Councils do not regularly report to Parliament after meetings on intergovernmental matters and on proposed national scheme legislation.
Chapter 3. Reports Tabled

3.1 Introduction

During the reporting period seven reports were tabled in the Parliament. The reports covered a range of issues and made a number of substantial recommendations to enhance the scrutiny process of Parliament.

3.2 Eighteenth Report - Evidence Law

The Standing Committee's Eighteenth report was tabled on 13 November 1996. The report considers whether Western Australia should adopt uniform statutory provisions for evidence and if so, the manner in which this might be best achieved. The Evidence Act 1995 of the Commonwealth which was adopted in the Australian Capital Territory and the Evidence Act 1995 of New South Wales which contains virtually identical provisions became the model for enactment throughout Australia. The model legislation codifies almost all of the common law principles governing the admissibility and presentation of evidence. The report recommends substantial adoption of the uniform model legislation, but with the addition of those sections of the current Western Australian Evidence Act 1906 which it believes should not be lost.

3.3 Nineteenth Report - Ministerial Councils

This report provides an overview of the system of Ministerial Councils and the growth of intergovernmental relations. It provides a background on the development of Ministerial Councils as a means of facilitating intergovernmental relations throughout Australia through the cooperation of Commonwealth and State Ministers responsible for particular portfolios.

The report outlines the roles and powers of Ministerial Councils and the part Ministerial Councils play in the development of national co-operative agreements and uniform legislative schemes.

The report provides an historical background to Ministerial Councils and considers recent developments. It highlights potential problems posed by the development of Ministerial Councils in relation to their accountability to Parliament. The effect of the lack of information about Ministerial Councils on parliamentary and public scrutiny of law-making is also addressed.

3.4 Twentieth Report - Bank Mergers Bill 1997

This report provides background to the Bank Mergers Bill 1997 which provides for the adoption of legislation of another jurisdiction in respect of bank mergers. The Bill provides that the laws of another jurisdiction would apply to Western Australia by an Order to be tabled in the Western Australian Parliament in the same manner as a regulation. The report considers the response of a number of jurisdictions and considers the advantages and disadvantages of using general bank
merger legislation as well as a discussion on the differences posed by the bank mergers legislation as opposed to other uniform legislation.

3.5 Twenty-first Report - Uniform Legislation

This report provides a general overview of the growing trend towards the harmonisation of laws both nationally and internationally. Laws are harmonised to eliminate disparities between States and countries for economic and health reasons. Regulations have an impact on the movement of goods. The harmonisation of laws aims at eliminating obstacles to trade by encouraging internal convergence of laws in order to achieve the objectives of State export-import policy.

The report discussed the federal structure in a number of countries and considers the growing trend towards the harmonisation of laws and how it is dealt with in the various federal systems as well as the mechanisms in place to ensure scrutiny and accountability to the Parliament.

The report discusses the growth of intergovernmental relations and how different federations have developed mechanisms to ensure legislative scrutiny of matters relating to proposed or current intergovernmental agreements and uniform legislation.

State legislatures and State and regional governments can actively participate in providing input to proposed legislative measures. The requirement that State legislatures are informed ensures a measures of accountability to the legislature and ultimately the people.

The Standing Committee has made recommendations to ensure that the Western Australian Parliament is informed of intergovernmental agreements negotiated at Ministerial Councils. These would ensure the legislatures role in providing a degree of scrutiny and for the executives accountability to the Parliament.

3.6 Twenty-second Report - Co-operatives Law

This report was a response to notification by the Attorney-General for Western Australia of the proposed Co-operatives Law Agreement that Western Australia was entering.

In an effort to achieve uniformity of co-operatives laws throughout Australia all States and Territories agreed to enact new co-operatives legislation. The legislation was based around “core consistent provisions” which would be the same from State to State.

The Co-operatives Agreement sets out a list of the “core consistent provisions” which would be the basis for uniform co-operatives legislation.

The report sets out the background to co-operatives law in Australia and the development and growth of co-operatives in Australia. The report outlines the background to the agreement to enact nationally consistent legislation. The intergovernmental agreement which sets out the Co-operatives Laws Agreement is discussed as well as the “core consistent provisions” which make
up the model uniform co-operatives law. The Agreement facilitates interstate activity by co-operatives.

The model legislation provides the framework for the formation, registration and management of co-operatives. It also enables some flexibility in the operation of co-operatives to promote their development.

The report outlines the position of Western Australia and the State’s commitment to enacting the “core consistent provisions” of the model co-operatives law. The report outlines the objectives of the legislation and its interface with the Corporations Law.

3.7 Twenty-third Report - Financial Systems Reform

The Financial Systems Reform report was a response to the notification to the Standing Committee by the Treasurer of Western Australia of an Intergovernmental Agreement between the Commonwealth, States and Territories to transfer the supervisory and regulatory responsibility of credit unions, building societies and friendly societies from the States and Territories to the Commonwealth.

The purpose of the Intergovernmental Agreement and the legislative amendments was part of the legislative process required to provide national uniform regulation of the financial sector and bring credit unions, building societies and friendly societies within the national regulatory framework.

The report examines the background to changes to the Australian financial system and the need for harmonisation of prudential standards and uniformity of regulatory requirements in the financial industry.

3.8 Twenty-fourth Report - Competition Policy and Reforms in the Public Utility Sector

This report considers the process and impact of the implementation of National Competition Policy, particularly how reform of public utilities have impacted on the Western Australian economy. Although it is not a comprehensive review of all reforms in the public utility sector, the report considers National Competition Policy and other microeconomic reforms undertaken in the government sector.

The report outlines the concept and objectives of competition policy and the interconnection of competition policy with trade regulation. Competition is considered in light of the changing nature of the worldwide marketplace, globalisation, the thrust of competition policy from an international dimension, the harmonisation of competition rules and the impact of the restructuring of the natural monopoly of essential services.

The report exposes that while much of the commentary on globalisation concentrates on economic issues and the benefits of free trade and deregulation, a more integrated approach is required, taking into account the social, cultural, environmental and political consequences.
The report concludes that there has been confusion about what National Competition Policy represents because it has been complicated by a raft of other reforms, such as competitive tendering, benchmarks and various other government measures. Public utilities have undergone significant changes structurally and in their operations.

The report finds that the pace of economic change across the Australian economy has in some cases created uncertainty and distress and that the potential benefits of competition policy are often poorly understood and potential disadvantages of competition policy often exaggerated. Competition policy and related reforms are often mistakenly blamed for developments which have little or nothing to do with competition policy.
Chapter 4. Committee Activities

4.1 Introduction

During the course of this reporting period the Standing Committee -

- completed a number of inquiries and tabled seven reports and conducted a number of meetings;
- took evidence and was briefed by a number of persons, bodies and organisations; and
- participated in interstate and overseas study tours.

4.2 Public Hearings

Under the Standing Committee’s Terms of Reference, the Standing Committee has the power to send for persons and papers in the course of its investigations. During the reporting period, the Standing Committee conducted several hearings which are listed in Appendix six.

4.3 Briefings

The utilisation of informal briefing in the inquiry process is an effective tool of the Committee as it provides an alternative means of seeking information without the rigid structure of a hearing.

The Standing Committee conducted informal hearings where more formalised hearings were not considered appropriate. Informal briefings also occurred when the Committee travelled outside the State and overseas.

Briefings conducted are listed in Appendices two to four.

4.4 Inquiries

The Standing Committee undertook inquiries into a number of areas and wrote to a number of Ministers including the Minister for Health and the Attorney General as a result of inquiries to the Committee on matters relating to uniform legislation.

The Standing Committee is currently undertaking a number of inquiries these are discussed in Chapter 5.
4.5 Delegations

The Standing Committee received a number of delegations including -

4.5.1 German Delegation

State Representatives from the Federal Upper House of the Federal Republic of Germany met with Standing Committee on 8 December 1998. Members of the delegation were aware of the work of the Committee and were interested in establishing contacts and exchanging information and views.

The members of the German delegation are listed in Appendix Seven.

4.5.2 Senate Delegation

The Standing Committee met with members of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy when they were in Perth conducting hearings on 17 May 1999. The Senate Committee’s current inquiry covered similar issues which were being dealt with by the Standing Committee in its Twenty-fourth report on Competition Policy and Reforms in the Public Utility Sector.

The members of Senate delegation are listed in Appendix Seven.

4.6 Conferences and Seminars

The Standing Committee attended and participated in a number of conferences and seminars during this period. These are briefly discussed below.

4.6.1 Fourth Commonwealth Conference on Delegated Legislation

Members of the Standing Committee attended the Fourth Commonwealth Delegated Legislation Conference held in Wellington, New Zealand from 10 to 13 February 1997. The Chairman presented a joint paper with other Chairs of some Australian scrutiny committees on effective scrutiny of uniform legislation.

4.6.2 Sixth Australasian and Pacific Conference on Delegated Legislation and Third Australasian and Pacific Conference on the Scrutiny of Bills

A member of the Standing Committee Mr Dan Barron-Sullivan attended the Sixth Australasian and Pacific Conference on Delegated Legislation and Third Australasian and Pacific Conference on the Scrutiny of Bills in Adelaide on 16, 17 and 18 July 1997. The scrutiny of national scheme legislation was an important topic at the conference.
4.6.3 National Competition Policy Conference

The Deputy Chairman and the Legal Research Officer attended the National Competition Policy Conference in Sydney on 8 and 9 October 1997. The Standing Committee was at the time investigating and preparing a report on competition policy. The Conference covered the implementation progress of competition policy.

4.6.4 Meeting of Chairs and Deputy Chairs of Scrutiny Committees

The Chairman and Legal Research Officer of the Standing Committee attended a meeting of the Chairs and Deputy Chairs of Commonwealth, State and Territory Scrutiny Committees in Sydney on 10 March 1998 to discuss a motion passed at the Sixth Australasian and Pacific Conference on Delegated Legislation and the Third Australasian and Pacific Conference on the Scrutiny of Bills in Adelaide in July 1997 on the issue of a joint appraisal of cost benefit and sunset provisions to scrutinise Acts and regulations. The meeting was addressed by Senator Bill O’Chee, Chairman of the Senate Standing Committee on Regulations and Ordinances on the issue of the scrutiny of national scheme legislation.

4.6.5 Seminar on the Role of Parliaments in Treaty Making

The Standing Committee attended a seminar conducted by the Commonwealth Parliament Joint Standing Committee on Treaties on the role of parliaments in treaty making held in Parliament House, Canberra on 24 and 25 June 1999. The Chairman of the Standing Committee participated as a panel member.

The aim of the seminar was to explore the role played by parliaments in treaty making, both in Australia and overseas, with a view to maximising the effectiveness of the process.

The seminar resolved to support the formation of an inter-parliamentary working group on treaties. The inter-parliamentary working group on treaties would -

- comprise members from all of the parliamentary committees represented at the seminar (and any other committees that may, over time, become interested in treaty matters);
- act as a forum for promoting public awareness of proposed treaty actions and encouraging wider parliamentary scrutiny of treaty making;
- meet every six months to review upcoming treaty actions in much the same way as Commonwealth and State officials meet as part of the Standing Committee on Treaties (SCOT) process;
- be supported by the secretariats of the respective committees on a rotational basis. The secretariats could be responsible for preparing and distributing agenda papers, including
lists of upcoming treaty actions and national interest analyses, and for preparing outcome reports for each participating committee.

As well as helping improve public awareness of treaty actions, the results of the meetings would inject a State perspective into the deliberations of the Joint Standing Committee on Treaties.

### 4.6.6 Seventh Australasian and Pacific Conference on Delegated Legislation and Fourth Australasian and Pacific Conference on the Scrutiny of Bills

The Standing Committee attended the Seventh Australasian and Pacific Conference on Delegated Legislation and Fourth Australasian and Pacific Conference on the Scrutiny of Bills Conference at Parliament House, Sydney on the 21st, 22nd and 23rd July 1999. The Standing Committee was substantially involved in the conference with the Chairman presenting two papers, the first on Competition Policy and the second on Uniform Legislation. Another member of the Standing Committee chaired one of the sessions at the conference.

### 4.7 Investigative Tours

The Standing Committee undertook a number of investigative tours during the reporting period which assisted the Committee in compiling a number of reports which have been tabled.

#### 4.7.1 Investigative Tour to Brussels, Bonn, Toronto and Washington

The Standing Committee went on an investigative tour to Brussels, Bonn, Toronto and Washington from 5 to 21 July 1997. The Standing Committee met with members of Parliament as well as academics and specialists in the areas of uniform legislation and competition policy.

The Standing Committee was briefed by the officials of the European Commission including the head of the unit for relations with Australia. The discussions covered matters relating to the harmonisation of laws in Europe, mutual recognition and competition policy. The Committee also had discussion with members of the European and Belgium Parliaments.

In Bonn the Standing Committee was briefed by a leading academic on federalism as well as Members of the Federal State House, the Bundesrat and experts on competition policy and the unification of laws.

In Toronto the Standing Committee met with leading academics and experts on competition policy as well as officers from the Ministry of Intergovernmental Relations and of the Uniform Law Conference of Canada.

In Washington the Standing Committee discussed the harmonisation of laws with officers of the Academy for State and Local Government and from the Conference of State Legislatures. The Committee was briefed by the Federal Trade Commission and the Anti-trust Division of the Federal Justice Department on competition policy.
4.7.2 Investigative Tour of, Brisbane, Canberra, Melbourne and Wellington, New Zealand

The Standing Committee went on an investigative tour of Brisbane, Canberra, Melbourne and Wellington, New Zealand from 1 November 1998 to 10 November 1998.

In Brisbane the Standing Committee met with members of the Legal, Constitutional and Administrative Review Committee and the Scrutiny of Legislation Committee to discuss issues of common interest including matters of uniform legislation scrutiny and proposed legislative issues.

In Canberra the Committee met with the Senate Standing Committee on Regulations and Ordinances and the Scrutiny of Bills Committee to discuss matters relating to the scrutiny of national scheme legislation. The Standing Committee also met with the Select Committee on the Socio-Economic Consequences of the National Competition Policy to discuss issues of mutual interest concerning this committee’s investigation into the effects of competition policy. The Committee also met with the Australian Competition and Consumer Commission (ACCC) and the Productivity Commission concerning aspects of competition law and aspects of microeconomic reform including the economic and social impacts of competition policy and related infrastructure reform on rural and regional Australia.

The Standing Committee also met with the Standing Committee on Justice and Community Safety of the Australian Capital Territory Assembly to discuss the scrutiny of uniform legislation.

In Melbourne the Standing Committee met with senior officers of the Department of Premier and Cabinet to discuss the restructuring of and reform of government services. The Committee also met with members of the Federal-State Relations Committee to discuss matters of mutual concern including issues of Federal State relations and treaties. The Standing Committee had discussions with members of the Law Reform Committee who have been considering national uniform privacy laws. The Standing Committee had deliberations with members of the Scrutiny of Acts and Regulation Committee who wished to discuss a proposal for a national parliamentary scrutiny committee for national scheme legislation.

In Wellington, New Zealand the Standing Committee had meetings with a number of leading academics from Victoria University Wellington. The Committee discussed issues relating to deregulation and the impact of an integrated market for essential services. The Standing Committee also had discussions with the Commerce Commission which is the equivalent of the ACCC in Australia as well as with senior officers of the Department of the Treasury and the Ministry of Commerce. The Standing Committee also met with members of the State Services Commission and well as the New Zealand Institute of Economic Research.
Chapter 5. Inquiries in Progress

5.1 Introduction

The Standing Committee is currently undertaking a number of preliminary investigations which may be progressed into Committee reports.

5.2 Human Reproductive Technology

The Select Committee on the Human Reproductive Technology Act 1991 tabled its report on 22 April 1999. The Select Committee observed that many submissions called for uniform legislation nationwide. The Select Committee agreed with the concept of consistency across States and recommended that consistent uniform, national legislation be developed as a matter of priority.

The Select Committee recommended -

That consistent uniform and/or national legislation on human reproductive technology be developed as a matter of priority and that the Standing Committee on Uniform Legislation and Intergovernmental Agreements be required to address it.7

The Standing Committee received a request from the Select Committee to inquire into uniform legislation in this area.

5.3 Legislative Structures

The Committee is investigating different legislative structures which are available to promote uniformity in legislation. The Committee had considered such structures in its second report. However, since that time the Committee has considered other structures that have been available and will investigate other possible methods of achieving harmonisation of laws.

5.4 Register of Intergovernmental Agreements & Uniform Legislative Schemes

The Standing Committee is investigating updating information on proposed uniform legislation and intergovernmental agreements. It will liaise with all Ministers to investigate existing intergovernmental agreements and uniform legislative schemes and proposed uniform legislative schemes. In its third report the Standing Committee discussed the possibility of developing a register of uniform legislation and intergovernmental agreements.

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5.5  **Treaties**

The Federal-State Relations Committee of the Victorian Parliament tabled in the Victorian Parliament in October 1997 a report on International Treaty Making and the Role of the States in which it recommended that treaties and related information be tabled in State Parliaments. The Victorian Committee also recommended that a Parliamentary Committee with the responsibility for the investigation of treaty matters and for reporting to the Parliament on the impact on the State of treaties and proposed treaties, should be established in all State Parliaments.

This Standing Committee has been involved in consultations with other State Committees and the Commonwealth Joint Standing Committee on Treaties which supported the formation of an inter-parliamentary working group on treaties.

The Standing Committee will investigate federalism and the role of the State Parliaments in treaty making.

5.6  **Organ Transplants**

The Standing Committee has been asked to investigate uniform legislation on donor and organ transplants. The Committee is investigating the concept of consistency across States and the initiatives taking place in other jurisdictions.
Chapter 6. Major Issues for the Committee

6.1 Introduction

There has been a number of major issues which have involved the Standing Committee during this reporting period. The most prominent issues have been the Commission on Government Report and the Standing Orders and Procedures Committee Report which are discussed below.

6.2 Commission on Government Report


The Commission recommended the restructuring of parliamentary committees and the setting up of a comprehensive standing committee system. In relation to the Standing Committee on Uniform Legislation and Intergovernmental Agreements, the Commission on Government acknowledged that the Standing Committee had -

3 gained considerable status and recognition for its work.

The Commission recommended that the Standing Committee on Uniform Legislation and Intergovernmental Agreements should be abolished and its functions incorporated into a proposed new committee in the Legislative Council called the Standing Committee on Constitutional and Federal/State Affairs. This new Committee would be responsible for scrutinising uniform legislation and intergovernmental agreements as well as considering legislation with constitutional implications. The Commission on Government recommended -

Recommendation 110 - 4. The Standing Committee on Uniform Legislation and Intergovernmental Agreements should be abolished and its functions transferred (10.3.2.5).

and

Recommendation 119 - 4. The current Legislative Assembly Standing Committee on Uniform Legislation and Intergovernmental Agreements should be abolished. In its place, the proposed Standing Committee on Constitutional and Federal State Affairs in the Legislative Council should be responsible for scrutinising uniform legislation and intergovernmental agreements. Its brief should also include considering legislation with constitutional implications. (10.3.2.5).4


6.3 Standing Orders and Procedure Committee Report

On 27 February 1998 the Standing Orders and Procedure Committee of the Legislative Assembly sought the views of the Standing Committee on Uniform Legislation and Intergovernmental Agreements (SCULIA) on Commission on Government (COG) recommendations. The Committee responded on 17 March 1998.


The Standing Orders and Procedure Committee did not accept that the Standing Committee on Uniform Legislation and Intergovernmental Agreements should be abolished and in its place there should be established a Standing Committee on Constitutional and Federal State Affairs in the Legislative Council responsible for scrutinising uniform legislation and intergovernmental agreements as well as considering legislation with constitutional implications. It found instead in favour of the approach adopted by the Select Committee on Procedure in its Final Report in Recommendation 18 for the amalgamation of the Standing Committee on Uniform Legislation and Intergovernmental Agreements with the Joint Standing Committee on Delegated Legislation.

The Standing Orders and Procedure Committee held that the functions of the Uniform Legislation and Intergovernmental Agreements Committee and the Joint Standing Committee on Delegated Legislation ought to be merged with the retention of existing levels of research and advice to the two committees to enable the newly formed committee to undertake the work. Neither of these two committees are in favour of the merger.


\(^6\) Western Australia, Legislative Assembly, Select Committee on Procedure, Final Report, June 1996, p 44.
Chapter 7. Proposed Uniform Legislation

7.1 Introduction

The Standing Committee has identified certain areas in which the issue of proposed uniform legislation has been raised. A number of these topics are briefly outlined below.

7.2 Children in the Legal Process

The report of the Australian Law Reform Commission on Children in the Legal Process made recommendations in relation to a number of issues involving children in the legal process. This included advocacy, administrative decisions, legal representation, children’s evidence, jurisdictional arrangements in family law and care and protection, children’s involvement in family law proceedings, children’s involvement in criminal justice processes, sentencing and detention. The report called for -

- the implementation of national standards in areas of law;
- co-ordination of children’s policies and initiatives at State and Territory level; and
- through the Standing Committee of Attorney’s General (SCAG) the encouragement of States and Territories to enact similar legislation.

7.3 Proceeds of Crime Legislation

Model legislation was prepared in 1985 aimed at producing relatively uniform or consistent legislation dealing with the proceeds of crime throughout Australia. Due to delays and local considerations, each jurisdiction introduced its own version, although the basic scheme adopted by SCAG was adhered to in all jurisdictions at first.

The initial legislation giving effect to the SCAG scheme was enacted by all Australian jurisdictions between 1985 and 1993. However, over time amendments in some jurisdiction has resulted in legislative differences in many jurisdictions.

International developments in dealing with the drug trade and associated activities has lead to the United Nations Convention Against Illicit Traffic in Narcotic Drugs. The Convention was ratified in November 1992 and came into effect for Australia in February 1993. Australia also participated in the development of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. This Convention came into force for Australia on 1 November 1997.
The effect of Australia becoming a party to the conventions is that the enactment of proceeds of crime laws in all Australian jurisdictions must accord with Australia’s international legal obligations.

### 7.4 Legal Risk in International Transactions

A number of issues have been raised in relation to international transactions including -

- **Electronic commerce** - a need to investigate the legal implications of electronic commerce including a review of federal laws and uniformity of State and Territory laws and relevant international legal and non-legal options;

- **Electronic banking** - for evidence purposes it is necessary to give express recognition in national legislation to the efficacy of electronic records; and

- **Confidentiality and privacy** - calls for the extension of privacy legislation in Australia.

### 7.5 National De Facto Laws

The Law Council of Australia has made a submission to the Standing Committee of Attorneys General (SCAG) calling for national laws covering de facto relationships. The Law Council recommended that model legislation be enacted by each State and Territory government, to enable those governments to adopt a legislatively uniform approach which would also allow for some differences in critically important areas.

### 7.6 Law of Succession - The Law of Wills

Although the succession laws were uniform in the Australian colonies during the nineteenth century, they diverged during the twentieth century when the colonies began to enact their own legislation. Those divergencies became so marked, that as a result, there are no two States or Territories in Australia where the succession laws are the same.

The Standing Committee of Attorneys General (SCAG) in 1991 initiated a project to develop uniform succession laws for Australia. Co-ordination of the project was given the Queensland Law Reform Commission. Each State and Territory as well as the Commonwealth, was represented on the Committee overseeing the project and the New Zealand Law Commission was also represented on the National Committee. The Commission’s Report is an endorsement of the Report prepared by the National Committee for Uniform Succession Laws which was submitted to SCAG in December 1997. The law of succession in Western Australia includes the *Wills Act 1970*, the *Administration Act 1903* and the *Inheritance (Family Dependants’ Provision) Act 1972*. 
7.7 National Criminal Code

The aim is to have a national criminal code by the year 2001. The Standing Committee of Attorneys General has embarked on the preparation of a Model Criminal Code to develop uniform laws throughout Australia. A number of the chapters of the code have been released as discussion papers. However, some of the proposals have been controversial and have not been widely supported.

7.8 Property Law

A national approach to property law was proposed by the Law Council of Australia. Uniformity in land titles and revenue offices of the States and Territories is proposed to meet the expansion of trade and commerce, foreign investment, trade globalisation and communications revolution and to deal with the costs and difficulty of transactions in one jurisdiction compared to another.

7.9 Legal Profession

The Law Council of Australia is pushing to break down State barriers and achieve a national legal profession as a forerunner to uniform laws and a less complex legal system. The move towards a national legal profession would boost opportunities for Australian lawyers to work in the lucrative overseas markets. A national approach to the operation and regulation of the Australian legal profession would enhance competition within the profession. These reforms are part of national competition reforms. The proposals for national reforms are subject to consideration by the Standing Committee of Attorneys General and the National Competition Council.

The system of regulation of the legal profession should be implemented by uniform State and Territory legislation. A uniform code is being drafted which will be adopted by professional bodies in each State and Territory.

7.10 Occupational Health and Safety

In 1991, a Premiers’ Conference agreed to set up a Special Task Force to establish a framework of national uniformity for occupational health and safety.

The Australian Chamber of Commerce and Industry is committed to achieving national consistency in Occupational Health & Safety regulations. National consistent regulation saves dollars for businesses by requiring compliance with only one regulatory regime wherever a business operates around Australia. At present many enterprises are forced to comply with various State regulations which impose different obligations on industry in each State. This increases costs and reduces productivity.

The National Occupational Health and Safety Commission is comprised of representative from Federal, State and Territory Governments, as well as business and the unions and has been actively working towards national standards.
7.11 Uniform Defamation Law

The issue of uniform defamation laws has been on the agenda of SCAG and other review bodies for some time. A number of States have provided drafts of rewritten statutes. However, progress has not been made.

7.12 Privacy Laws

Currently there is no general privacy legislation in Australia that regulates the handling of personal information in the private sector. Advances in technology have brought privacy issues to the fore. There have been a number of reviews and parliamentary committee reports calling for the introduction of uniform privacy laws. The issue of privacy laws has a number of aspects -

Firstly, legislation to underpin the E-commerce revolution; and

Secondly, for any privacy legislation to apply to private service-providers contracted by government departments and agencies to perform services which would otherwise be performed by those departments and agencies.

The Commonwealth Government has moved to amend the federal Privacy Act 1988 to protect privacy in the private sector. This move to a national approach was a result of consultations with the States and Territories and concerns about the possibility of the development of a patchwork of different privacy regimes across Australia with added costs to business. The decision was also influenced by an October 1998 Directive of the European Union restricting the transfer of personal information from member countries to other countries unless adequate privacy safeguards are in place. The privacy legislation will establish a national scheme for the private sector.

The privacy legislation will apply broadly across the private sector to bodies corporate or unincorporated and to individuals, such as sole traders or consultants operating in their business capacity and to government business enterprises.

The legislation will not apply to State or Territory public sector agencies including local government bodies.
Chapter 8. Financial Statement

1997/1998 Financial Year

Statement of actual costs of the operation of the Standing Committee in accordance with Legislative Assembly Standing Order 276.

Travel Expenses

Adelaide, South Australia (16 July to 18 July 1997)

Airfares Member $1 400.00
Allowances Member $1 100.00
Incidental Expenses $100.00 $2 600.00

Sydney, New South Wales (7 October to 10 October 1997)

Airfares Members $3 200.00
Staff $1 600.00
Allowances Members $2 100.00
Staff $1 000.00
Incidental Expenses $200.00 $8 100.00

Sydney, New South Wales (9 March to 11 March 1998)

Airfares Members $3 400.00
Staff $1 700.00
Allowances Members $2 200.00
Staff $1 100.00
Incidental Expenses $300.00 $8 700.00

General Expenses

Meals $200.00
Conference Fees $3 400.00
Postage and Couriers $100.00
Protocol $600.00
Printing (General and Commercial) $1 500.00
Salaries $92 100.00
Stationery/Photocopying $500.00
Miscellaneous $100.00

GRAND TOTAL $117 900.00
1998/1999 Financial Year

Statement of actual costs of the operation of the Standing Committee in accordance with Legislative Assembly Standing Order 276.

Travel Expenses

_Brisbane, Canberra, Melbourne and Wellington, New Zealand (1 November to 10 November 1998)_

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*$27 300.00

Sydney, New South Wales (20 July to 27 July 1999)*

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<tr>
<td>Airfares</td>
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</tbody>
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*$14 400.00

General Expenses

- Conference Fees $100.00
- Postage and Couriers $600.00
- Printing (General and Commercial) $1 700.00
- Protocol $900.00
- Salaries $93 000.00
- Taxis $500.00

$96 800.00

**GRAND TOTAL** $138 500.00

*The airfare component for the Standing Committee to attend the Seventh Australasian and Pacific Conference on Delegated Legislation and Fourth Australasian and Pacific Conference on the Scrutiny of Bills held in Sydney, New South Wales from 20 July to 27 July 1999 was paid out of the Standing Committee’s budget for the 1998/99 financial year.*
1 July 1999 to 31 December 1999 (Estimate)

Statement of actual costs of the operation of the Standing Committee in accordance with Legislative Assembly Standing Order 276.

Travel Expenses

*Sydney, New South Wales (20 July to 27 July 1999)*

<table>
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General Expenses

- Conference Fees: $600.00
- Postage and Couriers: $500.00*
- Printing (General and Commercial): $3 000.00*
- Protocol: $100.00
- Salaries: $45 000.00*
- Taxis: $100.00

**GRAND TOTAL** $61 700.00

* The airfare component for the Standing Committee to attend the Seventh Australasian and Pacific Conference on Delegated Legislation and Fourth Australasian and Pacific Conference on the Scrutiny of Bills held in Sydney, New South Wales from 20 July to 27 July 1999 was paid out of the Standing Committee’s budget for the 1998/99 financial year.

* Estimated expenditure to 31 December 1999.
APPENDIX ONE

Glossary

Throughout this report the following terminology has been used:

“Select Committee” means the Western Australian Select Committee on Parliamentary Procedures for Uniform Legislation Agreements established by the Legislative Assembly of the Western Australian Parliament on the 4 June 1992.

“Standing Committee” means the Standing Committee on Uniform Legislation and Intergovernmental Agreements established by the Legislative Assembly of the Western Australian Parliament on 4 August 1993 and re-established on 18 March 1997.

Abbreviations

“ACCC” Australian Competition and Consumer Commission.

“AG” Attorney General.

“COAG” Council of Australian Governments.

“COG” Commission on Government.

“JSCOT” Joint Standing Committee on Treaties.

“NZ” New Zealand.

“SCAG” Standing Committee of Attorneys General.

“SCOT” Standing Committee on Treaties, meeting of Senior officials representing States and Territories and the Commonwealth. It acts as a secretariat to the Treaties Council.

“SCULIA” Standing Committee on Uniform Legislation and Intergovernmental Agreements.
### APPENDIX TWO

#### List of Overseas Meetings Held by the Standing Committee

<table>
<thead>
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<th>Date</th>
<th>Contact</th>
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<tr>
<td>7/7/1997</td>
<td>Colin Milner</td>
<td>First Secretary, Australian Embassy and Mission to the European Union.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Jose Borrell</td>
<td>Head Unit for Relations with Australia, DGI, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Peter Meyer</td>
<td>Foreign Policy Advisor, Central Policy and Planning, External Political Relations DGIA, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Matthew King</td>
<td>Administrator, Internal Market, Insurance and Pension Funds and External Aspects of Financial Services, DGXV, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Helmult Schroter</td>
<td>Head of Unit, Legal and Procedural Problems, General Competition Policy and Coordination, DGIV, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Elisabetta Manunea</td>
<td>Unit for Legal and Procedural Problems, General Competition Policy and Coordination, DGIV, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Caroline Walcot</td>
<td>Deputy Secretary General, European Round Table.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>7/7/1997</td>
<td>Senator, the Hon. Margaret Reid</td>
<td>President of the Senate - Australian Senate.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
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<td>Organisation</td>
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<tr>
<td>8/7/1997</td>
<td><strong>Senator Michel Foret</strong></td>
<td>Leader of the Liberal Party in the Belgium Senate and Member of the Parlement Régional Walloon and the Conseil de la Communauté Francaise.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Annemie Neyts - Uyttebroeck, MEP</strong></td>
<td>Member of the European Parliament's Institutional Affairs Committee and Rapporeur for the Committee Report on Relations between the European Parliament and National Parliaments.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Antonio Sacchettini</strong></td>
<td>Director, Legal Service, General Secretariat of the Council of the European Union.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Roelof Plijter</strong></td>
<td>Deputy Head of Unit, Directorate General 1, External Relations, Commercial Policy, Relation with North America, the Far East, Australia and New Zealand, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Don Kenyon</strong></td>
<td>Ambassador, Australian Embassy and Mission to the European Union.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Pamela Brumter</strong></td>
<td>Deputy Head of Unit, Directorate General III, Industry, European Commission.</td>
<td>Brussels - Belgium</td>
</tr>
<tr>
<td>8/7/1997</td>
<td><strong>Jane Drake-Brockman</strong></td>
<td>Minister, Australian Embassy and Mission to the European Union.</td>
<td>Brussels - Belgium</td>
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<tr>
<td>8/7/1997</td>
<td><strong>Justine McPhillips</strong></td>
<td>Counsellor, Australian Embassy and Mission to the European Union.</td>
<td>Brussels - Belgium</td>
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<td>Belgium Parliament.</td>
<td>Brussels - Belgium</td>
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<td>9/7/1997</td>
<td><strong>Dr Uwe Leonardy</strong></td>
<td>Ministerial Counsellor, Lower Saxony State Office.</td>
<td>Bonn - Germany</td>
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<td>10/7/1997</td>
<td>Gustav Wabro</td>
<td>State Secretary from the State of Baden-Wurttemberg - Bundesrat.</td>
<td>Bonn - Germany</td>
</tr>
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<td>10/7/1997</td>
<td>Mrs Krause-Sigle</td>
<td>Head of Competition Policy Subdivision, Federal Ministry of Economics.</td>
<td>Bonn - Germany</td>
</tr>
<tr>
<td>10/7/1997</td>
<td>Michael Baron</td>
<td>Head of Division on Competition Policy, Federal Ministry of Economics.</td>
<td>Bonn - Germany</td>
</tr>
<tr>
<td>10/7/1997</td>
<td>Manfried Steffen</td>
<td>Senior Expert, Asia-Pacific Region, Federal Ministry of Economics.</td>
<td>Bonn - Germany</td>
</tr>
<tr>
<td>10/7/1997</td>
<td>Wendy Marth</td>
<td>Projects Officer, Australian Embassy.</td>
<td>Bonn - Germany</td>
</tr>
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<td>Dr Horst Risse</td>
<td>Head of Bundesrat, Speaker’s Office.</td>
<td>Bonn - Germany</td>
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<td>Professor Fred Lazar</td>
<td>Professor of Economics, Faculty of Arts, York University School of Business.</td>
<td>Toronto - Canada</td>
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<td>Daniel Schwanen</td>
<td>Senior Policy Analyst, C D Howe Institute.</td>
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<td>14/7/1997</td>
<td>Sean R Peterson</td>
<td>Policy Analyst, Canadian Chamber of Commerce.</td>
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<td>Peter Kane</td>
<td>Consul-General and Senior Trade Commissioner, Australian Consulate and Trade Commission.</td>
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<td>14/7/1997</td>
<td>Marie Ross</td>
<td>Personal Assistant to the Consul General, Australian Consulate and Trade Commission.</td>
<td>Toronto - Canada</td>
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<td>Professor David Cameron</td>
<td>Department of Political Science, University of Toronto.</td>
<td>Toronto - Canada</td>
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<tr>
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<td>William Forward</td>
<td>Assistant Deputy Minister, Office of Constitutional Affairs and Federal-Provincial Relations, Ministry of Intergovernmental Affairs.</td>
<td>Toronto - Canada</td>
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<td>15/7/1997</td>
<td>Craig McFayden</td>
<td>Director, Office of Constitutional Affairs and Federal-Provincial Relations, Ministry of Intergovernmental Relations.</td>
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<td>15/7/1997</td>
<td>Mark Polley</td>
<td>Executive Assistant to the Assistant Deputy Minister, Ministry of Intergovernmental Relations.</td>
<td>Toronto - Canada</td>
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<tr>
<td>15/7/1997</td>
<td>John D Gregory</td>
<td>General Counsel, Cabinet Office, Immediate Past President of the Uniform Law Conference of Canada.</td>
<td>Toronto - Canada</td>
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<tr>
<td>17/7/1997</td>
<td>Charles Stark</td>
<td>Section Chief, Foreign Commerce Section, Anti-trust Division, US Department of Justice.</td>
<td>Washington DC - USA</td>
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<td>17/7/1997</td>
<td>Ed Hand</td>
<td>Assistant Section Chief, Foreign Commerce Section, Anti-trust Division, US Department of Justice.</td>
<td>Washington DC - USA</td>
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<td>17/7/1997</td>
<td>Milton Marquis</td>
<td>Senior Counsel to the Assistant Attorney General, Anti-trust Division, US Department of Justice.</td>
<td>Washington DC - USA</td>
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<tr>
<td>17/7/1997</td>
<td>Gregory J Werden</td>
<td>Director of Research, Chief Appellate Liaison Unit, Economic Analysis Group, Anti-trust Division, US Department of Justice.</td>
<td>Washington DC - USA</td>
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### Uniform Legislation and Intergovernmental Agreements

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<td>21/7/1997</td>
<td>Kathy Brennan-Wiggins</td>
<td>Director, International Programs, National Conference of State Legislatures.</td>
<td>Washington DC - USA</td>
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<td>21/7/1997</td>
<td>Bill Waren</td>
<td>Convenor of the Trade and Agriculture Committees - Product Liability Laws, National Conference of State Legislatures.</td>
<td>Washington DC - USA</td>
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<td>21/7/1997</td>
<td>David C Naftzger</td>
<td>Staff Assistant, International Programs, National Conference of State Legislatures.</td>
<td>Washington DC - USA</td>
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<td>Charles R Thomson</td>
<td>Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.</td>
<td>Washington DC - USA</td>
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<td>James O Pasco Jr</td>
<td>Assistant Director/Congressional and Media Affairs, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.</td>
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<td>Andrew Peacock</td>
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<td>Professor Lewis Evans</td>
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<td>Mark Steel</td>
<td>Director, Competition and Enterprise Branch, Ministry of Commerce.</td>
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<td>Alex Sundakov</td>
<td>Director, New Zealand Institute of Economic Research.</td>
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<td>Dr Stephen Gale</td>
<td>Head of Managerial Economics Division, New Zealand Institute of Economic Research.</td>
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<tr>
<td>10/11/1998</td>
<td>Peter Allport</td>
<td>Chairman, Commerce Commission.</td>
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<td>Dr Geoff Bertram</td>
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<td>Dr Russell Solomon</td>
<td>Senior Lecturer, School of Political Science &amp; International Relations, Victoria University.</td>
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<tr>
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<td>John Martin</td>
<td>Senior Lecturer in Public Policy, School of Business &amp; Public Management, Victoria University.</td>
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**APPENDIX THREE**

**List of Interstate Meetings Held by the Standing Committee**

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<td>3/11/1998</td>
<td><em>David Creed</em></td>
<td>Secretary, Senate Standing Committee on Regulations &amp; Ordinances.</td>
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<td><em>Prof Davies</em></td>
<td>Legal Consultant, Senate Standing Committee on Regulations &amp; Ordinances.</td>
<td>Canberra - ACT</td>
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<td><em>Janice Paull</em></td>
<td>Executive Assistant, Senate Standing Committee on Regulations &amp; Ordinances.</td>
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<td>3/11/1998</td>
<td><em>James Warmenhoven</em></td>
<td>Secretary, Senate Scrutiny of Bills Committee.</td>
<td>Canberra - ACT</td>
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<td>3/11/1998</td>
<td>Dr Pippa Carron</td>
<td>Secretary, Senate Select Committee on the Socio-Economic Consequences of the</td>
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<tr>
<td>3/11/1998</td>
<td>Robin Hardy</td>
<td>Research Officer, Senate Select Committee on the Socio-Economic Consequences</td>
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<td>Herb Plunkett</td>
<td>Assistant Commissioner, Productivity Commission.</td>
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<td>Allan Asher</td>
<td>Deputy Chairman, Australian Competition &amp; Consumer Commission.</td>
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<td>Hank Spier</td>
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<td>Paul Osborne MLA</td>
<td>Chair, Standing Committee on Justice &amp; Community Safety (ACT Assembly).</td>
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<td>Jamie Carstairs</td>
<td>First Assistant Secretary, Economic Development, Department of Premier &amp; Cabinet.</td>
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<td>Greg McLeish</td>
<td>Senior Adviser, Cabinet Office, Department of Premier &amp; Cabinet.</td>
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<td>Hon Gerald Ashman MLC</td>
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<td>Leonie Burke MP</td>
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<td>Greg Culcutt, Parliamentary Counsel</td>
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<td>Una Couper, Parliamentary Counsel</td>
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<td>27/8/1997</td>
<td>Andrea Michailides, Project Officer</td>
<td>Premier &amp; Cabinet</td>
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<td>Janos Peter Tiborc, Principal Policy Officer</td>
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<td>Klaus Peter Kolf, Senior Manager</td>
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<td>Dr Leslie Arthur Farrant, Co-ordinator</td>
<td>Energy WA</td>
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<td>Mark Hands, General Counsel</td>
<td>Western Power</td>
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<td>Nenad Ninkov, General Manager, Corporate Strategy</td>
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<td>Phillip John Harvey, Chief Executive Officer</td>
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<td>Peter Richard, Acting Commissioner for Corporate Affairs</td>
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<td>Michael Buckley, Managing Director</td>
<td>Lawley Pharmaceuticals</td>
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<td>Glenda Scott, Regional Registrar</td>
<td>Child Support Agency</td>
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<td>Ian Munns, Deputy Registrar</td>
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## APPENDIX FIVE

**List of Submissions**

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<td>Peter Robertson, Convenor</td>
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<td><em>Beth Schultz, Vice-President</em></td>
<td>Conservation Council of WA</td>
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<td>15/10/1998</td>
<td>D. Figliomeni, General Manager</td>
<td>Bunbury Port Authority</td>
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<td>20/10/1998</td>
<td>S. Edwards</td>
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<td>22/10/1998</td>
<td>Peter V Jones, Chairman</td>
<td>Water Corporation</td>
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<td>30/10/1998</td>
<td>Geoff Calder, General Manager</td>
<td>South West Irrigation</td>
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<td>2/11/1998</td>
<td>Frank O’Connor, General Manager</td>
<td>Capricorn Society Limited</td>
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<td>Kevin McMenenny, General President</td>
<td>Western Australian Farmers Federation (Inc.)</td>
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<td>Albert Millard, Divisional President WA</td>
<td>National Institute of Accountants</td>
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<td>Ross McLean, Deputy Chief Executive, Director Policy &amp; Parliamentary Liaison</td>
<td>Chamber of Commerce &amp; Industry</td>
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### APPENDIX SIX

#### List of Witnesses

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<td><strong>John Martin</strong>, Director</td>
<td>WA Municipal Association</td>
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<td><strong>Ian Stanley Mickel</strong>, Shire President</td>
<td>Country Shire Council Association</td>
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<td><strong>Shaheen De Souza</strong>, Principal Research Officer</td>
<td>WA Municipal Association</td>
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<td><strong>Paul Carter</strong>, Economics Executive Officer</td>
<td>WA Farmers Federation (Inc.)</td>
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<td><strong>James William Ferguson</strong>, Executive Director</td>
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<td><strong>Nicola Claire Cusworth</strong>, Chief Economist</td>
<td>Chamber of Commerce and Industry</td>
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<td><strong>Anne Nolan</strong>, Assistant Under Treasurer</td>
<td>WA Treasury</td>
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<td><strong>David Anthony Morrison</strong>, Economist</td>
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<td><strong>Garry Wayne James</strong>, Acting Commissioner</td>
<td>Westrail</td>
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<td><strong>John William Leaf</strong>, Financial Controller</td>
<td>Westrail</td>
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<td><em>Robert Ian Sewell,</em> Chairman</td>
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<td><em>Lyn McKay,</em> Manager, Corporate Affairs</td>
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<td><em>John Joseph Woolfe,</em> Manager Group Strategy Integration</td>
<td>Australian Wheat Board Ltd.</td>
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<td><em>Lindsay David H. Williams,</em> General Counsel</td>
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<td><em>Darren Grondal,</em> Co-ordinator Regulation &amp; Legal Officer</td>
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<td><em>Ninad Ninkov,</em> General Manager, Corporate Strategy</td>
<td>Western Power Corporation</td>
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<td><em>Peter Aaron Eddy,</em> Business Analyst</td>
<td>Western Power Corporation</td>
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<td><em>Derek Perez,</em> Principal Economist</td>
<td>Office of Water Regulation</td>
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<td><em>Michael Andrew Harold,</em> Principal Industry Adviser</td>
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### List of Delegation Members

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<td><strong>Heide Doerrhoefer-Tucholski,</strong> State Secretary for Federal and European Affairs</td>
<td>Federal Republic of Germany</td>
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<td>8/12/1998</td>
<td><strong>Norbert Schueren,</strong> State Secretary</td>
<td>Federal Republic of Germany</td>
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<td>8/12/1998</td>
<td><strong>Dr Karl-Heinz Klaer,</strong> State Secretary</td>
<td>Federal Republic of Germany</td>
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<td><strong>Werner Ballhausen,</strong> State Secretary</td>
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<td><strong>Erik Bettermann,</strong> State Councillor</td>
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Previously Identified Structures for Uniform Legislation

The Standing Committee has so far identified and classified nine legislative structures relevant to the issue of uniformity in legislation. A brief description of each is provided below.

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<th>Structure</th>
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<tr>
<td><strong>Structure 1:</strong></td>
<td><em>Complementary Commonwealth-State or Co-operative Legislation.</em> The Commonwealth passes legislation, and each State or Territory passes legislation which interlocks with it and which is restricted in its operation to matters not falling within the Commonwealth's Constitutional powers.</td>
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<td><strong>Structure 2:</strong></td>
<td><em>Complementary or Mirror Legislation.</em> For matters which involve dual, overlapping, or uncertain division of constitutional powers, essentially identical legislation is passed in each jurisdiction.</td>
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<tr>
<td><strong>Structure 3:</strong></td>
<td><em>Template, Co-operative, Applied or Adopted Complementary Legislation.</em> Here a jurisdiction enacts the main piece of legislation, with the other jurisdictions passing Acts which do not replicate, but merely adopt that Act and subsequent amendments as their own.</td>
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<tr>
<td><strong>Structure 4:</strong></td>
<td><em>Referral of Power.</em> The Commonwealth enacts national legislation following a referral of relevant State power to it under section 51(xxxvii) of the Australian Constitution.</td>
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<tr>
<td><strong>Structure 5:</strong></td>
<td><em>Alternative Consistent Legislation.</em> Host legislation in one jurisdiction is utilised by other jurisdictions which pass legislation stating that certain matters will be lawful in their own jurisdictions if they would be lawful in the host jurisdiction. The non-host jurisdictions cleanse their own statute books of provisions inconsistent with the pertinent host legislation.</td>
</tr>
<tr>
<td><strong>Structure 6:</strong></td>
<td><em>Mutual Recognition.</em> Recognises the rules and regulation of other jurisdictions. Mutual recognition of regulations enables goods or services to be traded across jurisdictions. For example, if goods or services to be traded comply with the legislation in their jurisdiction of origin they need not comply with inconsistent requirements otherwise operable in a second jurisdiction, into which they are imported or sold.</td>
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<tr>
<td><strong>Structure 7:</strong></td>
<td><em>Unilateralism.</em> Each jurisdiction goes its own way. In effect, this is the antithesis of uniformity.</td>
</tr>
<tr>
<td><strong>Structure 8:</strong></td>
<td><em>Non-Binding National Standards Model.</em> Each jurisdiction passes its own legislation but a national authority is appointed to make decisions under that legislation. Such decisions are, however, variable by the respective State or Territory Ministers.</td>
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<tr>
<td><strong>Structure 9:</strong></td>
<td><em>Adoptive Recognition.</em> A jurisdiction may choose to recognise the decision making process of another jurisdiction as meeting the requirements of its own legislation regardless of whether this recognition is mutual.</td>
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# List of Committee Reports

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<td><strong>No. 24 Competition Policy and Reforms in the Public Utility Sector</strong></td>
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<td>Considers the impact of National Competition Policy and related reforms on services provided by the public sector</td>
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Conference Papers

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## Other Papers

*Report to the Chairman of the Joint Standing Committee on Delegated Legislation on the Meeting of Chairs and Deputy Chairs of Scrutiny Committees*
Bibliography


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