



THIRTY-NINTH PARLIAMENT

REPORT 74

**JOINT STANDING COMMITTEE ON DELEGATED
LEGISLATION**

**INQUIRY INTO ACCESS TO
AUSTRALIAN STANDARDS ADOPTED IN
DELEGATED LEGISLATION —
TERMS OF REFERENCE**

Presented by Mr Peter Abetz MLA (Chairman)

and

Hon Robin Chapple MLC (Deputy Chair)

September 2014

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Date first appointed:

28 June 2001

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“10. Joint Standing Committee on Delegated Legislation

- 10.1 A *Joint Standing Committee on Delegated Legislation* is established.
- 10.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chair must be a Member of the Committee who supports the Government.
- 10.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.
- 10.4 (a) A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.
- (b) Where a notice of motion to disallow an instrument has been given in either House pursuant to recommendation of the Committee, the Committee shall present a report to both Houses in relation to that instrument prior to the House's consideration of that notice of motion. If the Committee is unable to report a majority position in regards to the instrument, the Committee shall report the contrary arguments.
- 10.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 10.6 In its consideration of an instrument, the Committee is to inquire whether the instrument –
- (a) is within power;
- (b) has no unintended effect on any person's existing rights or interests;
- (c) provides an effective mechanism for the review of administrative decisions; and
- (d) contains only matter that is appropriate for subsidiary legislation.
- 10.7 It is also a function of the Committee to inquire into and report on –
- (a) any proposed or existing template, *pro forma* or model local law;
- (b) any systemic issue identified in 2 or more instruments of subsidiary legislation; and
- (c) the statutory and administrative procedures for the making of subsidiary legislation generally, but not so as to inquire into any specific proposed instrument of subsidiary legislation that has yet to be published.
- 10.8 In this order –
- “instrument” means –
- (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
- (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
- “subsidiary legislation” has the meaning given to it by section 5 of the *Interpretation Act 1984*.”

Members as at the time of this inquiry:

Mr Peter Abetz MLA (Chairman)

Hon Robin Chapple MLC (Deputy Chair)

Hon John Castrilli MLA

Hon Peter Katsambanis MLC

Hon Mark Lewis MLC

Ms Simone McGurk MLA

Mr Paul Papalia MLA

Hon Ljiljana Ravlich MLC

Staff as at the time of this inquiry:

Stacey Martin (Committee Clerk)

Kimberley Ould (Advisory Officer (Legal))

Anne Turner (Advisory Officer (Legal))

Suzanne Veletta (Advisory Officer (Legal))

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REPORT OF THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

REPORT 74: INQUIRY INTO ACCESS TO AUSTRALIAN STANDARDS ADOPTED IN DELEGATED LEGISLATION — TERMS OF REFERENCE

1 REFERENCE AND PROCEDURE

1.1 On 10 September 2014 the Joint Standing Committee on Delegated Legislation (**Committee**) resolved to conduct an own motion inquiry into access to Australian Standards adopted in delegated legislation (**the inquiry**).

1.2 The inquiry arises out of the Committee's scrutiny of delegated legislation referred to the Committee under its terms of reference. Delegated legislation often adopts Australian Standards.

1.3 The Committee's term of reference 10.7(b) states:

It is also a function of the Committee to inquire into and report on any systemic issue identified in 2 or more instruments of subsidiary legislation

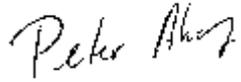
1.4 The Committee has identified a systemic issue relating to access to Australian Standards adopted in delegated legislation.

1.5 The Committee has resolved that the inquiry will have the following terms of reference:

The Committee will inquire into access to Australian Standards adopted in delegated legislation in Western Australia including:

- 1. the level of free public access to adopted Australian Standards in metropolitan and regional Western Australia;*
- 2. whether amendments to legislation are required to improve public access to adopted Australian Standards;*
- 3. other measures to improve public access to adopted Australian Standards;*
- 4. measures to improve access to adopted Australian Standards provided to the Joint Standing Committee on Delegated Legislation; and*
- 5. any other related matters that arise during the course of the inquiry.*

1.6 Pursuant to Legislative Council Standing Order 179, the Committee acquaints the Houses accordingly.



Mr Peter Abetz MLA
Chairman

11 September 2014