

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Council's Resolution — Consideration in Detail

Message from the Council requesting concurrence in the following resolution now considered —

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the schedule for the constitution, powers and procedure of a Joint Standing Committee on Delegated Legislation.

SCHEDULE

10. Joint Delegated Legislation Committee

- 10.1 A *Joint Delegated Legislation Committee* 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 relation to the constitution, powers and procedure of the Joint Standing Committee on Delegated Legislation —
- (a) The Standing Orders applicable to committees of the Legislative Council will apply to the Committee's proceedings except to the extent that they impinge upon the functioning of the Committee;
- (b) Legislative Assembly Standing Orders 249(1), (2) and (3), 252, 254, 262, 263 and 264 will apply to the Legislative Assembly Members of the Committee;
- (c) Any Member of the Legislative Council or Legislative Assembly may participate in the taking of oral evidence by the Committee, and by leave of the Committee, its deliberations and proceedings but may not vote, move any motion, or be counted for the purpose of a quorum;

- (d) Leave under (c) may be given only for a specific inquiry, but any Member of the Legislative Council or Legislative Assembly may be given leave in relation to more than one inquiry.

10.9 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*.

Motion to Concur

Mr D.A. TEMPLEMAN: I move —

That the following motion in response to Legislative Council message 1 be agreed to —

That this house agrees to the resolution of the Legislative Council referred to in Legislative Council message 1, subject to the following amendment to which the Legislative Assembly requests the concurrence of the Legislative Council —

Delete paragraph 10.8.

I highlight to the house the reason the motion reads to delete paragraph 10.8. Although we do not wish to hold up the establishment of the committee, we propose to delete this paragraph because it relates primarily to our concern that it is not currently contained in the instrument that establishes the committee in the Legislative Council standing orders. The Legislative Council has not made clear to this chamber the reason it wishes to include paragraph 10.8. The view is that the Joint Standing Committee on Delegated Legislation of the current Parliament should determine whether the insertion of this paragraph is necessary or desirable and that the committee itself should report to both houses on the reasoning behind any view to include such a paragraph. It is pertinent that this motion is carried because we do not want to include a paragraph from the other place that has not been given justified reason.

Question put and passed.

The Council acquainted accordingly.