

PARLIAMENT OF WESTERN AUSTRALIA

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

FIFTH REPORT

(December 1990)

**REPORT ON THE EQUAL OPPORTUNITY AMENDMENT
REGULATIONS 1990**

Laid on the Table December 1990

REPORT ON THE EQUAL OPPORTUNITY AMENDMENT REGULATIONS 1990

The Equal Opportunity Amendment Regulations 1990 were gazetted on November 9.

The regulations state:

" Regulation 2 amended

3. Regulation 2 of the principal regulations is amended by deleting "The" and substituting the following -

"Subject to regulation 34 the ".

Regulation 34 inserted

4. After regulation 33 of the principal regulations the following regulation is inserted -

Annual Report under section 146 of the Act

"34. For the purposes of section 146 of the Act each authority shall report to the Director in the form approved by the Director for the Authority ".

The amendments formalise the procedure for presenting the annual statistics required under s. 146 of the Equal Opportunity Act 1984 by introducing an approved form prepared by the Directorate of Equal Opportunity in Public Employment. Previously there was no standard form for this purpose.

Concerns about the regulations were raised with members of the Joint Standing Committee on Delegated Legislation by local authorities and by the Western Australian Municipal Association.

The Committee has heard evidence from both the Directorate of Equal Opportunity in Public Employment and from the Western Australian Municipal Association, a new organisation, established on 1 July 1990 to represent and service the interests of the Local Government Association, the Country Shire Councils Association and the Country Urban Councils Association of WA.

CONCERNS RAISED BY LOCAL AUTHORITIES

1. The requirement for detailed annual statistics of equal opportunity measures in each local authority's management plan imposes an unreasonable and unrealistic burden on staff;
2. the content and extent of some of the required statistics is not mandatory despite the Director's assertion that it is;
3. additional statistics may be required in succeeding years without prior consultation;
4. the statistics may be used for comparing authorities and forcing affirmative action to the detriment of existing employment policies;
5. there was no consultation with authorities before introduction of the amending regulation;
6. that subsequent discussions with the Directorate and attempts to negotiate a compromise have proved abortive.

EVIDENCE PRESENTED BY OFFICERS OF THE DIRECTORATE OF EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT

Mr Eddie Squire, Policy Officer with the Directorate of Equal Opportunity in Public Employment informed the Committee that the purpose of the regulation was to make the presentation of annual reporting by local government authorities uniform to assist both the Directorate and the authorities.

Mr Squire also informed the Committee that statistical information had been a requirement for the past 2 years and that discussions had taken place with the Western Australian Municipal Association.

EVIDENCE PRESENTED BY OFFICERS OF THE WESTERN AUSTRALIAN MUNICIPAL ASSOCIATION

Mr. Bruce Donaldson, President of WAMA and Mr. Don Moss, Director of Labour Relations gave evidence to the Committee to explain and clarify their concerns as outlined above.

Having heard the evidence of these witnesses, the Committee is of the opinion that the regulation does not appear to infringe any of the Committee's Terms of Reference.

WAMA does not dispute that s.146 of the Equal Opportunity Act 1984 requires the provision of an annual report by local government authorities. This section states:

(1) Each authority shall report to the Director at least once in each year after the date on which the implementation of its management plan commenced.

(2) A report under subsection (1) shall specify -

(a) the activities and programmes undertaken -

(i) to eliminate and ensure the absence of discrimination in employment on the ground of sex, marital status, pregnancy, race or religious or political conviction; and

(ii) to promote equal opportunity for all persons,

during the period to which the report relates;

(b) the results achieved by the activities and programmes referred to in paragraph (a), including redistributive effects in the workforce; and

(c) the proposed activities and specific aims set for the year following the period to which the report relates.

Further, s.169 (2) of that Act states:

"(2) Without limiting the generality of subsection (1), the Governor may make regulations for or with respect to -

(a) the forms to be used for the purpose of this Act or the regulations;..."

The content of the regulation does not unduly trespass on individual rights, liberties and freedoms, nor does it contain matter which ought properly to be dealt with by an Act of Parliament nor seek to make rights dependent upon administrative and not judicial decisions.

It appears from the evidence that the concerns of local authorities relate to the extent of the statistics required under s. 146, to the future use of that statistical information and to

the possibility for the scope of the information to be widened as the Director sees fit, rather than to the requirement for the information to be presented in a form prepared by the Directorate, which is the subject matter of the regulation in question. The issue therefore falls beyond the Committee's stated Terms of Reference.

Under Item 7 of their Joint Rules, however, the Committee may report to the House if it is of the opinion that any other matter relating to the regulation should be brought to the notice of the House and in this context submits that there appears to be both the need and the willingness from both parties to discuss the perceived problems and fears of local authorities further.

Your Committee therefore recommends that consultation between the Director of Equal Opportunity in Public Employment and the Western Australian Municipal Association should be undertaken as a matter of some urgency and should include clarification by the Directorate of the reasons for the statistics with assistance if necessary for local authorities who are experiencing difficulties.

Your Committee also invites the Minister responsible to inform the House of the progress and results of those negotiations.