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MINISTERIAL OFFICE MEMORANDUM

TITLE: UNIFORM LEGISLATION AND STATUTES REVIEW COMMITTEE

The Uniform Legislation and Statutes Review Committee (the Committee) scrutinises all uniform legislation on behalf of the Legislative Council of Western Australia.

Uniform legislation

Uniform legislation is legislation that ratifies or gives effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or which by reason of subject matter, introduces a uniform scheme or uniform laws throughout the Commonwealth of Australia (uniform legislation).

The Legislative Council standing order

The Legislative Council standing orders provide for Bills implementing uniform legislation to automatically stand referred to the Committee for inquiry and report.

Standing Order 126 provides:

- (1) During the second reading speech of a Member in charge of a Bill, the Member shall advise the Council whether or not the Bill is a Uniform Legislation Bill and shall give reasons as to why.
- (2) For the purposes of these Standing Orders, a Uniform Legislation Bill is a Bill that –
 - (a) ratifies or gives effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or ratifies or gives effect to a bilateral or multilateral intergovernmental agreement to which the Government of the State is a party; or
 - (b) by reason of its subject matter, introduces a uniform scheme or uniform laws throughout the Commonwealth.
- (3) The Council may order that a Bill is a Uniform Legislation Bill notwithstanding contrary advice from the Member in charge of the Bill.
- (4) Any Bill nominated by the Member in charge or ordered by the Council as a Uniform Legislation Bill shall stand referred to the Uniform Legislation and Statutes Review Committee (the Committee) at the conclusion of the second reading speech of the Member in charge or immediately following an order of the Council under (3).
- (5) The Member in charge of a Bill referred to the Committee shall ensure that all documentation required by the Committee is provided to the Committee within 3 business days after referral under (4).
- (6) The Committee shall inquire into any Bill referred under (4) in accordance with the Committee's terms of reference and present its final report to the Council.

(7) A report due under (6) shall be presented to the Council by –

- (a) not later than 45 calendar days after the Bill was referred to the Committee; or
- (b) such other date as ordered by the Council.

(8) The second reading stage of the Bill shall not be resumed until the Committee has presented its final report to the Council.

There is an additional standing order of relevance to this matter, namely:

128 (1) At any time after the second reading has been moved and before the third reading has been moved, a motion without notice may be moved to refer the Bill to a Standing or Select Committee.

(2) Unless otherwise ordered, if a Bill is referred under (1) after the second reading of the Bill has been agreed, the Committee shall not inquire into the policy of the Bill and may only recommend amendments to the Bill that are consistent with the policy of the Bill.

The standing orders require that the Committee report back on the Bill within 45 days. The Legislative Council can resolve to extend or reduce this period although it is more usual that the time for the Committee's inquiry and report is extended.

Ministers can assist the passage of uniform legislation through the Legislative Council by:

- (1) identifying the Bill/s early as one that may be subject to standing order 126;
- (2) being aware that in programming the introduction and parliamentary passage of the Bill/s, account must be taken of the 45 day period that the Bill/s will stand referred to the Committee for inquiry; and
- (3) responding to a request from the Committee for information in a timely manner.

Identification of Bills as uniform legislation

When introducing into the Parliament of Western Australia a Bill that implements uniform legislation, Ministers should ensure that the second reading speech for the Bill:

- (1) makes reference to the fact that the Bill is (whether in whole or in part) uniform legislation; and
- (2) outlines the relevant intergovernmental agreement/memorandum of understanding pursuant to which the Bill has been introduced.

Provision of information

To assist the conduct of the Committee's inquiries, a Minister should consider providing the following information to the Committee, at the time a Bill to which standing order 126 applies is first tabled in Parliament (even if this is in the Legislative Assembly):

- (a) a copy of the relevant intergovernmental agreement/memorandum of understanding, if one is available;
- (b) if (a) is not available, a copy of the communiqué from the Ministerial Council meeting at which it was agreed to introduce the legislation;
- (c) a statement as to any timetable for the implementation of the legislation;
- (d) a copy of the Explanatory Memorandum;

- (e) any public statement of the Government's policy on the Bill;
- (f) the advantages and disadvantages to the State as a participant in the relevant scheme or agreement; or laws
- (g) advice as to relevant constitutional issues;
- (h) advice as to whether and by what mechanism the State can opt out of the scheme;
- (i) the mechanisms by which the Bill, once enacted, can be amended. That is, whether the intergovernmental agreement/memorandum of understanding places parameters on the type of and manner in which it is envisaged that amendments are to be made to the legislation, for example whether the agreement of the State, or a majority of States and Territories, is required;
- (j) if the legislation has been developed by reference to a model Bill, a copy of that model Bill; and
- (k) the name and contact numbers for the:
 - Policy Officer who has carriage of the Bill;
 - Instructing Officer in the relevant department; and
 - where relevant, any government expert(s) who can answer technical questions posed by the legislation.

This information should be sent via email: unileg@parliament.wa.gov.au to:

Committee Clerk
Uniform Legislation and Statutes Review Committee
Legislative Council
Parliament House
PERTH WA 6000.

To assist the timely passage of uniform legislation through the Legislative Council, Ministers should ensure that Ministerial staff and agencies within their portfolios are familiar with the above requirements of the Committee.

It is important that any request for the Committee to prohibit publication of all or part of the information provided is made when the information is provided and the reason for confidentiality is clearly stated. It should be noted that ongoing negotiations between levels of government are confidential and wherever possible, should not be divulged until the State's position is finalised. It should be further noted that the Committee will consider requests for confidentiality but retains the power to publish any material. The Legislative Council may also authorise publication.

Further information regarding the functions or procedures of the Committee may be sought from the Committee Clerk, Uniform Legislation and Statutes Review Committee, telephone 9222 7300.

MARK MCGOWAN MLA
PREMIER