

MINUTES OF THE MEETING OF THE COMMITTEE OF SUBORDINATE LEGISLATION  
HELD AT 12.30 PM ON THURSDAY, 25 OCTOBER 1990,  
IN ROOM 5.04 PARLIAMENTARY ANNEXE

PRESENT:

Mr R.D. Barber, MLA (Chairman)  
Mr A.A. FitzGerald, MLA  
Mr L.W. Stephan, MLA  
Mr J.H. Sullivan, MLA  
Mrs S. Munro (Legal Counsel)  
Miss J. Dingwell (Secretary)

APOLOGIES:

Mr G.B. Fenlon, MLA  
Mr R.K. Hollis, MLA  
Mr R.J. Quinn, MLA

MINUTES OF PREVIOUS  
MEETING:

The minutes of the previous meeting, having been circulated to members, were taken as read and confirmed on the motion of Mr Sullivan, seconded by Mr Barber.

CARRIED

BUSINESS ARISING  
FROM MINUTES:

No.5/89 Order in Council (Rule) - Supreme Court Act

The meeting endorsed letter of 4.10.1990 to the Minister and considered his response of 19.10.1990 that Orders in Council in accordance with the Committee's advice had been prepared and forwarded for the necessary concurrence of the Judges of the Supreme Court.

Resolved: That gazettal of the Orders in Council be awaited.

No.18C/89 Regulations - Primary Producers' Organisation and Marketing Act

Letter of 4.10.1990 to the Minister in accordance with resolution of previous meeting, endorsed.

Revision of the Workers' Compensation Act

The meeting endorsed letter forwarded on 4.10.1990 to the General Manager of the Workers' Compensation Board in accordance with resolution of previous meeting.

Committee's Eighteenth Report

The meeting noted that the wording of the section relating to the Queensland Performing Arts Trust By-laws had been altered to reflect the current position and that the report had been tabled by the Chairman on 23.10.1990.

Amendment of Acts by subordinate legislation

Counsel reported on the proposal by the Parliamentary Business and Legislation Committee of Cabinet that provision be made in the Criminal Justice Act, Electoral and Administrative Review Act, Public Sector Management Commission Act and Superannuation (State Public Sector) Act for variation of definitions by subordinate legislation (Henry VIII clauses).

The problems associated with the existing definitions as perceived by the Cabinet Committee were noted, as was the flexibility that the desired method of amendment offered; however, it was considered that as previous Committees had consistently objected to Acts of Parliament being amended by subordinate legislation, the Committee could not now approve of the practice.

After further discussion it was resolved to advise the Chairman of the Cabinet Committee that this Committee opposes the proposed use of Henry VIII clauses in the Acts mentioned.

OTHER BUSINESS:

No.17/89 Orders in Council (Rule) - Jury Act

Consideration was given to the Minister's letter of 16.10.1990 advising that between 1.9.1989 and 14.9.1989 there were four instances of overpayments to the Registrar of \$20 each. However, the Director-General, Department of Justice, pursuant to regulation 9(1)(a) of the Financial Administration and Audit Regulations, authorized the making of a special payment refunding the overpayments. The Minister therefore submitted that there was no need for validating legislation.

The meeting noted that the Committee had received and accepted similar advice from the Minister regarding overpayments to jurors during the same period and resolved to accept the Minister's advice again and take no further action in the matter.

No.9/90 By-laws - Queensland Performing Arts Trust Act

Consideration was given to the Acting Premier's letter of 15.10.1990 conveying the Trust's advice that it would be appropriate to include a head of power by-law in the Act and that by-law 4.3 would be withdrawn.

The meeting resolved to await amendment of the Act and gazettal of the amending by-law.

Perth Conference

The meeting discussed letter of 15.10.1990 from the Research Officer of the Western Australian Committee advising that the Third Conference of Australian Delegated Legislation Committees will be held in Perth from 28 to 31 May 1991 and seeking advice regarding Queensland representation.

It was resolved to advise that the Committee hopes to be represented at the conference and possibly present a paper but cannot indicate the number of delegates at this stage.

The question of Counsel and the Secretary accompanying the delegation was then considered and it was moved by Mr Stephan, seconded by Mr Sullivan, that an allocation be made for Legal Counsel and the Secretary to attend the conference.

CARRIED

COUNSEL'S REPORT:

No.17/90 Regulations - Motor Vehicles Insurance Act

Counsel reported that presumably the intent, if not the effect, of this instrument is to amend the scale upon which premiums for compulsory insurance are chargeable. It appears that instead of repealing regulation 4(2) the department has, from time to time since 24.8.1974, published an instrument similar in form to the one now being considered.

The effect of this seems to be that an obligation arises under regulation 4(2) (which has never been repealed) and a further obligation arises under the instrument being considered.

After discussion the meeting resolved to advise the Minister that there appears to be a problem that needs to be corrected and suggest that he seek advice from the Crown Solicitor.

It was further resolved that in view of the unsatisfactory form in which the regulation appears, attention be drawn to Cabinet requirements regarding the drafting of subordinate legislation.

NEXT MEETING:

The next meeting of the Committee will be held at 12.30 pm on Thursday, 8 November 1990, in Room 5.04, Parliamentary Annexe.

There being no further business the Chairman declared the meeting closed at 12.55 pm.

CONFIRMED this 8<sup>th</sup> day of Nov 1990.

  
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Chairman