

Your Ref: Scrutiny of Bills Committee Inquiry

Quote in reply: Direct Advocacy

7 July 2011

Committee Secretary
Senate Standing Committee
For the Scrutiny of Bills
PO Box 6100
Parliament House
Canberra ACT 2600

By email: scrutiny.sen@aph.gov.au

Dear Committee Secretary

SCRUTINY OF BILLS COMMITTEE INQUIRY

Thank you for granting the Queensland Law Society an extension of time to comment on the Scrutiny of Bills Committee Inquiry.

Overall, the Society considers that the Scrutiny of Bills Committee performs an invaluable role in objectively reviewing new Bills and proposed amending legislation to ensure compliance with the principles set out in Standing Order 24. The Society has considered the new Terms of Reference and makes the following comments.

1. Future Direction and role of the Scrutiny of Bills Committee

The Society understands that presently the Scrutiny of Bills Committee:

- Examines all bills that fall under Standing Order 24 (regardless of whether the Bills are before the Senate);
- Publishes regularly (approximately on a monthly basis) two publications setting out the bills for consideration, requesting comments, the action undertaken and the response received;
- On referral by the Senate, produces Reports on specific subject matter; and
- If required, may form a sub-committee.

The Society considers that the Scrutiny of Bills Committee should continue in this direction, with further consideration to:

- widening the matters for consideration under Standing Order 24 (1)(a);
- authorising the Committee to conduct its own inquiry and produce a Report on a specific subject matter the Committee considers, by simple majority, would address any of the matters under Standing Order 24 (1)(a); and
- authorising the Committee to conduct a public hearing, in the event the Committee is preparing a Report on a specific subject matter.

These matters will be discussed in more detail below.

2. The role, powers and practices of similar committees in other jurisdictions

In Queensland, the *Legislative Standards Act 1992* (QLD) (“the Act”) sets out the fundamental legislative principles of which the Scrutiny of Legislation Committee must have regard to when examining new Bills.

The Act guides the Scrutiny of Legislation Committee by providing examples as to “whether legislation has sufficient regard to rights and liberties of individuals”¹ which includes:

- being consistent with the principles of natural justice;
- does not adversely affect rights and liberties, or impose obligations retrospectively;
- has sufficient regard to Aboriginal tradition and Island custom; and
- is unambiguous and drafted clearly and precisely.²

The Society recommends that Standing Order 24(1)(a) be widened to include these examples, so as to provide the Committee and the community further guidance when examining and commenting on new Bills.

3. Authorisation for public hearings and to hold the hearings at various locations throughout Australia

The Society considers that the Committee’s powers should be widened to conduct public hearings and, where necessary, conduct public hearings at various locations throughout Australia. However the Committee’s powers to conduct public hearings should only apply to circumstances where the Committee is preparing a Report on a specific subject matter.

4. Authorisation to access records from the 2010 Inquiry

In order to objectively evaluate the role of the Scrutiny of Bills Committee, the Society considers the Standing Committee should be authorised to access records from the 2010 Inquiry.

¹ *Legislative Standards Act 1992* (QLD) s 4(3).

² *Legislative Standards Act 1992* (QLD) s 4(3).

Thank you for the opportunity to comment on the 2011 Inquiry into the Scrutiny of Bills Committee.

Should you wish to discuss these concepts further, please do not hesitate to contact our Policy Solicitor, Louise Pennisi on (07) 3842 5872 or via email l.pennisi@qls.com.au

Yours faithfully

Bruce Doyle
President