

LEGISLATIVE REVIEW AND ADVISORY COMMITTEE.

No. 109 of 1976.

AN ACT to establish a Committee to examine and report to the Parliament upon whether regulations, rules and by-laws which may be disallowed by the Parliament trespass unduly on personal liberties or are otherwise undesirable in certain other respects, to examine and report to the Parliament upon other legislation and proposals for future legislation referred to it for the purpose, and for incidental and other purposes.

[Assented to 25th November, 1976.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Legislative Review and Advisory Committee Act, 1976.* Short title.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Arrange-
ment.

3. This Act is divided into Parts as follows—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—LEGISLATIVE REVIEW AND ADVISORY
COMMITTEE, ss. 5-6.

PART III.—REVIEW OF SUBORDINATE LEGISLA-
TION, ss. 7-8.

PART IV.—INVESTIGATION AND REPORT UPON
OTHER LEGISLATION, s. 9.

PART V.—MISCELLANEOUS, ss. 10-12.

Interpreta-
tion.

4. In this Act unless the context otherwise requires—

“Chairman” means Chairman of the Committee;

“Committee” means the Legislative Review and
Advisory Committee established under this
Act;

“member” means member of the Committee;

“regulation” means any regulation, rule or
by-law made under any Act which is or was
after the making thereof required to be
laid before each House of the Parliament;

“section” means section of this Act.

PART II.—LEGISLATIVE REVIEW AND ADVISORY
COMMITTEE.

Establish-
ment of
Committee.

5. (1) There shall be established a Committee to be known as the Legislative Review and Advisory Committee.

(2) The Committee shall consist of three members appointed by the Governor, one of whom shall be a practitioner as defined by the Legal Practitioners Act, 1893.

(3) Subject to this Act a member shall hold office for a period of five years, but a member appointed on the occasion when the Committee is first constituted shall hold office for such period not exceeding five years as is specified in his instrument of appointment, and any member is eligible for re-appointment.

(4) If a member—

- (a) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes permanently incapable of performing his duties as a member; or
- (c) resigns his office by writing under his hand addressed to the Governor,

the office of that member becomes vacant.

(5) Where the office of a member has become vacant other than by effluxion of time, the Governor may appoint a person to the vacant office for the unexpired part of the term of the office which has become vacant.

(6) A member shall be paid such fees and allowances as are determined from time to time by the Governor.

(7) The Governor shall appoint one of the members to be the Chairman of the Committee.

6. (1) The Governor may, on the recommendation of the Committee, appoint such officers as he considers necessary for the purpose of enabling the functions of the Committee properly to be carried out.

Staff of the
Committee.

(2) Subject to this Act, the terms and conditions of service of officers of the Committee shall be such as the Governor determines.

(3) The Public Service Act, 1904 does not apply to the officers of the Committee.

(4) Where an officer of the Public Service becomes an officer of the Committee he is entitled to retain all his existing and accruing rights (including any rights under the Superannuation and Family Benefits Act, 1938) as if his service as an officer of the Committee were a continuation of his service as an officer of the Public Service.

(5) Where a person ceases to be an officer of the Committee and becomes an officer of the Public Service, his service as an officer of the Committee shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service and the purposes of the Superannuation and Family Benefits Act, 1938.

(6) The Committee may, with the approval of the Treasurer and on such terms and conditions as are approved by the Treasurer, obtain such professional or technical assistance as it requires for the purpose of enabling the functions of the Committee properly to be carried out.

PART III.—REVIEW OF SUBORDINATE LEGISLATION.

Functions
of
Committee.

7. The functions of the Committee under this Part shall be to consider whether the special attention of Parliament should be drawn to any regulations on the ground that—

- (a) the regulations appear not to be within the power to make regulations conferred by, or not to be in accord with the general objects of, the Act pursuant to which they purport to be made;
- (b) the form or purport of the regulations calls for elucidation;
- (c) the regulations unduly trespass on rights or liberties previously established by law or inherent in the traditional freedoms of Her Majesty's subjects in Western Australia;

- (d) the regulations unduly make rights dependent upon administrative, and not upon judicial, decisions; or
- (e) the regulations contain matter which, in the opinion of the Committee, should properly be dealt with by an Act of Parliament and not by regulations.

8. (1) Where the Committee is of opinion that the special attention of Parliament should be drawn to any regulations considered by it pursuant to section 7, it shall forward its report, and any recommendation it wishes to make, on the matter to the presiding officer of each House of Parliament.

Report to
Parliament.

(2) Each presiding officer shall cause any report and recommendation received by him from the Committee to be laid before the House of Parliament over which he presides not later than the next sitting day after he has received the report and recommendation.

(3) The Committee shall so conduct its affairs as to ensure, so far as possible, that any report or recommendation concerning a regulation is received by each presiding officer not later than the expiration of six sitting days after the regulation was laid before that House of the Parliament pursuant to paragraph (d) of subsection (1) of section 36 of the Interpretation Act, 1918.

PART IV.—INVESTIGATION AND REPORT UPON OTHER LEGISLATION.

9. (1) Any Act, regulation or other statutory instrument may be referred by either House of Parliament or the Minister to the Committee for consideration and report on whether the Act, regulation or instrument—

Functions
of
Committee.

- (a) unduly trespasses on rights or liberties previously established by law or inherent in the traditional freedoms of Her Majesty's subjects in Western Australia; or

- (b) unduly makes rights dependent upon administrative, and not upon judicial, decisions, or unduly restricts or inhibits rights of appeal against administrative decisions.

(2) Either House of Parliament or the Minister may request the Committee to consider and report upon what principles, if any, might be adopted in the preparation of future legislation either generally or in relation to legislation dealing with specified subject matters in order to reduce the likelihood of such legislation—

- (a) unduly trespassing on rights or liberties already established by law or inherent in the traditional freedoms of Her Majesty's subjects in Western Australia; or
- (b) unduly making rights dependent upon administrative, and not upon judicial, decisions, or unduly restricting or inhibiting rights of appeal against administrative decisions.

(3) The Committee shall consider any matter referred to it pursuant to subsection (1) or (2) of this section and shall submit a report of its conclusions arising from the examination to the presiding officer of the House of the Parliament which referred the matter to it or the Minister who referred the matter to it, as the case may be.

(4) Each presiding officer shall cause any report received by him from the Committee pursuant to this section to be laid before the House of Parliament over which he presides not later than the next sitting day after he has received the report.

PART V.—MISCELLANEOUS.

10. (1) A person shall not be required or authorized by virtue of this Act—

- (a) to furnish any information or answer any question relating to proceedings of Cabinet or of any committee of Cabinet; or

- (b) to produce or inspect so much of any document as relates to any such proceedings.

(2) For the purpose of this section a certificate issued by the Under Secretary, Premier's Department, with the approval of the Premier of the State, certifying that any information or question, or any document or part of a document, relates to any such proceedings as are referred to in subsection (1) of this section is conclusive of the fact so certified.

11. Subject to section 10 and to any Rules of Parliament made for the purposes of this Act—

Powers of
the
Committee,
etc.

- (a) the Committee shall, in relation to any proceedings which it conducts for the purposes of considering or reporting upon a matter referred to in section 7 or subsection (1) of section 9, have the same powers to order persons to attend before it, to order persons to produce to it papers, books and other documents, and to require persons to answer questions asked by it, as may be exercised by a Committee of a House of the Parliament by virtue of the provisions of the Parliamentary Privileges Act, 1891; and
- (b) where, in the course of any proceedings conducted by the Committee for the purposes of considering or reporting upon a matter referred to it under section 7 or subsection (1) of section 9, a person does or omits to do an act or thing which, if done or omitted to be done by him in or in connection with the proceedings of a Committee of a House of the Parliament, would render him liable to be dealt with for contempt under the Parliamentary Privileges Act, 1891, the Committee may refer the matter to the presiding officer of either House of the Parliament and the person shall be liable to be dealt with by

that House as if his act or omission had been a contempt within the meaning of the Parliamentary Privileges Act, 1891.

Rules of
Parliament.

12. (1) Rules of Parliament may be made for prescribing the powers of, and procedures to be adopted by, the Committee in the exercise of its functions under this Act and for prescribing any other matter necessary or convenient for the due administration of this Act.

(2) The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in accordance with the Rules and Orders thereof.

(3) Rules of Parliament made under this Act shall be published in the *Government Gazette*.

(4) Section 36 of the Interpretation Act, 1918 does not apply to Rules of Parliament made under this Act.
