

**Government response to the Senate Standing Committee for the Scrutiny of Bills
Third Report of 2004 *The Quality of Explanatory Memoranda Accompanying Bills***

Recommendation

The committee recommends that the Department of the Prime Minister and Cabinet amend the Legislation Handbook to provide further guidance on the matters that the committee considers should be addressed in explanatory memoranda, including those matters that have been identified in paragraphs 2.10 and 2.11 of this report.

Response

Agreed. The Department of the Prime Minister and Cabinet proposes to review and update the chapter in the Legislation Handbook which sets out the requirements for preparing an explanatory memorandum. It is intended that the chapter will provide examples of the types of matters of interest to the committee.

Recommendation

The committee recommends that the Department of the Senate develop a set of guidelines to assist senators in the preparation of private bills

Response

The government has no comment on this recommendation.

Recommendation

The committee recommends that information relevant to the preparation of explanatory memoranda currently contained in the Legislation Handbook, Legislation Circulars and OPC Drafting Directions, be consolidated into one primary source of information, namely the Legislation Handbook.

Response

Agreed in principle. As part of the review of the Legislation Handbook, it is proposed that the chapter on preparing explanatory memoranda be rewritten to include matters raised in Legislation Circular No. 7 of 2003. Legislation Circulars are a useful mechanism for providing current information to departments. Material found in OPC Drafting Directions would be drawn on to the extent that inclusion in the Legislation Handbook would be of continuing assistance to instructing departments. The Department of the Prime Minister and Cabinet would welcome periodic input to the Legislation Circulars from the committee or the secretariat to the committee about ways to improve the standard of explanatory memoranda.

Recommendation

The committee recommends that, before a bill is introduced into the Parliament, an appropriately qualified person should check the explanatory memorandum accompanying that bill to ensure it explains fully the effect and operation of the proposed legislation and complies with the requirements contained in the Legislation Handbook, as amended.

Response

Agreed. Explanatory memoranda should, wherever possible, provide a clear, accurate and complete explanation of measures included in a bill and address matters covered in the committee's terms of reference. Responsibility for ensuring that this requirement is met resides with each agency. The Department of the Prime Minister and Cabinet will take the opportunity of the review of the Legislation Handbook to remind departments of the need for explanatory memoranda to be checked by an appropriately qualified senior executive officer before being submitted to the relevant minister for approval.

Recommendation

The committee recommends that consideration be given to developing a course to train departmental officers in the preparation of explanatory memoranda.

Response

Not agreed at this stage. The government considers that the changes agreed to in response to the committee's report will result in an improvement in the quality of explanatory memoranda. Consideration will be given to this recommendation should standards not improve.