



Minister for Disability  
Minister for Community Services and Facilities  
Minister for Employment and Workplace Safety  
Minister for Government Services and Procurement  
Member for Yerrabi

Mrs Giulia Jones MLA  
Chair  
Standing Committee on Justice and Community Safety  
ACT Legislative Assembly  
Via email: [Scrutiny@parliament.act.gov.au](mailto:Scrutiny@parliament.act.gov.au)

Dear Mrs Jones

I refer to *Scrutiny Report 45* of the Standing Committee on Justice and Community Safety (the Committee) and the comments made by the Committee in relation to the Employment and Workplace Safety Legislation Amendment Bill 2020.

This Bill was introduced on 18 June 2020 and makes a number of minor and technical changes to various pieces of legislation within my portfolio. These include the *Dangerous Goods (Road Transport) Act 2009* (DG(RT) Act), *Workers Compensation Act 1951* (WC Act) and the *Work Health and Safety Act 2011* (WHS Act).

Generally speaking, the amendments in this Bill operate in a number of regulatory environments where those who participate are and should be, aware of their legal obligations and can expect that non-compliance will be enforced.

In relation to the matters the Committee has drawn attention to and requested further information, I refer to the information set out below addressing each in turn.

The purpose of the amendments to the ACT's transport of dangerous goods laws are to better align our legislation with the nationally agreed model legislation for regulating the transport of dangerous goods across Australia, which has been implemented in all states and territories. Specifically, the amendments identified by the Committee have been directly picked up from the model laws and operate within the existing framework established under the DG(RT) Act.

As I have stated above, the amendments to the dangerous goods laws operate in circumstances where those who have an obligation to comply with the DG(RT) Act should be well aware of those obligations and that they are required to comply with the duties and responsibilities established under that law.

---

### ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia    GPO Box 1020, Canberra ACT 2601, Australia  
Phone +61 2 6205 1439    Email [orr@act.gov.au](mailto:orr@act.gov.au)



@SuzanneOrrMLA



SuzanneOrrMLA



SuzanneOrrMLA



Specifically, the amendment to insert a new section 190A (refer clause 38) is based on the model laws and adapts a similar provision already in the ACT statute books under the *Criminal Code 2002* (section 337) which also applies absolute liability to a similar offence. Section 190A has been adapted, in line with the model laws, to fit the regulatory context in which it operates. In other words, it supports the functions being exercised by an authorised officer under the DG(RT) Act.

Given the requirement that authorised officers, if practicable, must show their identity cards when exercising a function under that Act (refer section 25 of the DG(RT) Act) and it is an offence for a person to hold an identity card who is not an authorised officer for the Act, it is reasonable to expect that authorised officers in exercising a function under the Act (ie ensuring compliance) should be able to rely on the statements being made not to be false or misleading. The new section 190A assists in achieving this and I refer the Committee to the explanatory statement pages 15-16. It should also be noted that persons assisting an authorised officer must be supervised by an authorised officer and are only present if their assistance is reasonably necessary (refer section 78 of the DG(RT) Act).

In relation to clause 14 of the Bill which amends section 59 of the DG(RT) Act and directly gives effect to the model law, it operates within the protections afforded under part 3.4 of the Act. In particular, the protection from incrimination that applies to documents under subsection 67(3). As part 3.3 includes section 59 as to be amended by this Bill, the documents (ie records, devices and other things relevant to or that indicate an offence) include documents contemplated by clause 14. While information may be gathered and documents inspected, it is necessary for those documents to be produced in the first instance. This provision under section 59 recognises that in a regulatory environment, directions may be necessary in order to gather evidence of non-compliance with the Act. However, the principles of self-incrimination are preserved by making documents obtained under part 3.3 not admissible in criminal proceedings against the person.

On the amendments to section 72 of the DG(RT) Act and in the context of ensuring compliance with the Act in protecting the safety of workers and the community associated with the transport of dangerous goods on our roads, the ability to enforce this legislation is critical. The nature of working arrangements is constantly changing and now more so than ever, people are conducting their businesses from home. This does not mean that compliance with the Territory's dangerous goods laws cannot be enforced simply because the workplace is also the person's residence, nor does it mean that compliance activities can be frustrated simply because it is also a person's residence. This provision, consistent with the model laws, does however maintain that entry cannot be made without consent or a warrant where it is genuinely used for residential purposes.

Finally, in relation to the transitional provisions in clause 93 of the Bill, these provisions are necessary to ensure approved workers' compensation insurers and exempted self-insurers continue to be able to operate under the *Workers Compensation Act 1951* and provide support to injured workers while the new licensing scheme is being implemented. The impact of any regulations, only necessary should there be any unforeseen legislative impediments to that continuity arising during the transition period, would be temporary and are limited to matters

that are necessary and convenient to give effect to the current approvals or exemptions (as appropriate). As such, they will have no ongoing impact once the new licensing scheme comes into effect and the current approval periods for insurers and exemptions for self-insurers expire.

I thank the Committee for their consideration of this Bill and trust that the above information provides the clarification sought by the Committee.

Yours sincerely

Suzanne Orr MLA  
Minister for Employment and Workplace Safety