



Legislative Assembly for the Australian Capital Territory

Standing Committee on Legal Affairs
(Legislative Scrutiny Role)

Scrutiny Report 15

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About the committee

Establishing resolution

The Assembly established the Standing Committee on Legal Affairs (Legislative Scrutiny Role) on 3 December 2024.

The Committee is responsible for the following areas:

- “(9) the Standing Committee on Legal Affairs is also to perform a legislative scrutiny role of bills and subordinate legislation by:
 - (a) considering whether the clauses of bills (and amendments proposed by the Government to its own bills) introduced into the Assembly:
 - (i) unduly trespass on personal rights and liberties;
 - (ii) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (iv) inappropriately delegate legislative powers; or
 - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny; and
 - (vi) consider whether any explanatory statement associated with legislation meets the technical or stylistic standards expected by the Assembly;
 - (b) reporting to the Legislative Assembly about human rights issues raised by bills and subordinate laws presented to the Assembly pursuant to section 38 of the *Human Rights Act 2004*;
 - (c) considering whether any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):
 - (i) is in accord with the general objects of the Act under which it is made;
 - (ii) unduly trespasses on rights previously established by law;
 - (iii) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
 - (iv) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly; and
 - (d) consider whether any explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical or stylistic standards expected by the Assembly;”.

You can read the full establishing resolution [on our website](#).¹

¹ https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees-11th-assembly/LA_Scrutiny.

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Role of Committee

The Committee examines all Bills and subordinate legislation presented to the Assembly. It does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of totally non-partisan, non-political technical scrutiny of legislation. These traditions have been adopted, without exception, by all scrutiny committees in Australia. Non-partisan, non-policy scrutiny allows the Committee to help the Assembly pass into law Acts and subordinate legislation which comply with the ideals set out in its terms of reference.

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1. Bills

Bill—Comment

Firearms (Public Safety) Amendment Bill 2026

1.1 This Bill amends the *Firearms Act 1996* (“Firearms Act”) to:

- limit the number of firearms that can be possessed and used under a firearms licence, the number depending on the character of the licence, and imposes an additional condition on the firearms licence for compliance with the limitation;
- creates a new strict liability offence (new section 228A) to possess digital blueprints for the computer-aided manufacture of firearms or firearm parts;
- re-categorises the types of firearms that can be possessed and used; and
- adds a “belt-fed firearm” into Schedule 1 of the Firearms Act which contains a list of prohibited firearms.

1.2 The Bill also makes changes to the Firearms Act that are consequential to the above amendments including the insertion of new definitions and transitional provisions.

1.3 As is identified in the explanatory statement to the Bill, the Bill limits several human rights.

Do any provisions of the Bill unduly trespass on personal rights and liberties?— Committee resolution of appointment paragraph 9(a)(i)

Report under section 38 of the *Human Rights Act 2004* (HRA)

Right to privacy (section 12 HRA)

1.4 As explained in the explanatory statement, the Bill limits the right to privacy by imposing, through new section 52A, restrictions on the number and type of firearms that may be possessed or used. The explanatory statement states that the right to privacy “encompasses the idea that individuals should have a separate area of autonomous development, interaction and liberty, free from excessive government intervention and unsolicited intrusion by other individuals” and the Bill “limits the right of individuals to freely manage the property within their private possession.”

1.5 The explanatory statement provides the following explanation of how the limitation is proportionate to the Bill objectives:

This limitation is proportionate as the interest in managing private property without government oversight is balanced by the mitigation of harm that could be caused to the community. The amendments designate the number and types of firearms permitted for possession or use by each licence holder according to their necessity in certain occupations or vocational sectors, while still allowing pathways to the lawful possession of firearms if required for genuine reasons. This ensures that the amendments are the least restrictive means available to achieve the legitimate purpose.

1.6 **The Committee refers the Assembly to the discussion on the limitation on the right to privacy in the explanatory statement and does not require a response from the Minister.**

- 1.7 The Committee notes that new section 228A(5) may also limit the right to privacy. This new subsection provides that the registrar must keep a record of the approvals - and any condition of approval – granted under subsection (3)(c). This is the subsection providing an exception to the new section 228A(1) offence where approval has been given to possess a digital blueprint for scientific, medical, educational, military or law enforcement research.
- 1.8 The Clause Note for clause 12 contains a brief explanation of the objective of this new subsection (5). But the explanatory statement does not address the potential limitation on the right to privacy imposed by this subsection.
- 1.9 **The Committee requests the Minister to revise the explanatory statement to address the potential limitation on the right to privacy arising from new subsection 228A(5).**

The Committee draws this matter to the attention of the Assembly and asks the Minister to respond prior to the Bill being debated.

Right to freedom of expression (section 16 HRA)

- 1.10 The explanatory statement explains that the right to freedom of expression includes freedom to seek, receive and impart information and ideas of all kinds, whether orally, in writing or in print, by way of art, or in any other way. The statement then identifies that the new section 228A of the Firearms Act, which creates the new offence of possessing a digital blueprint enabling computer aided manufacture of a firearm, may limit this right.
- 1.11 The proposed new subsections 228A(1) and (2) follow:

(1) A person commits an offence if—

- (a) the person has possession of a digital blueprint for an item; and
- (b) the item is a firearm or a firearm part; and
- (c) the item may be manufactured by using the digital blueprint in combination with a computer-aided manufacturing device.

Examples—computer-aided manufacturing device

a 3D printer, an electronic milling machine

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (2) Strict liability applies to subsection (1) (b) and (c).

- 1.12 The explanatory statement explains:

The prohibition on possession of digital blueprints may limit sharing of information by digital means and may have downstream effects on artistic expression—for example by limiting possession of artistic impressions of firearm-related items and limiting the creation of artwork which relies on computer-aided processes.

- 1.13 The explanatory statement states that the purpose of the offence is to “protect community safety” and explains the proportionality of the limitation on the right to freedom of expression as follows:

...The offence only imposes minor limitations on freedom of expression, justified by reference to the significant harms the offence seeks to prevent.

The offence would only prohibit the possession of digital blueprints capable of being used in combination with a programmable computer device to create a firearm or part. It is not envisaged that it would apply to physical or electronic representations of firearms or other things possessed for reasons of artistic, scientific, or general interest. For example, it is not envisaged that the offence would apply to an exploded diagram of a firearm in a book or journal article.

1.14 The statement then goes on to explain that:

To the extent that an artwork or other thing can be used to manufacture a firearm or part, the offence would apply.

1.15 The Committee finds it difficult to follow this reasoning in the explanatory statement. If the offence applies to any artwork or other thing that can be used to manufacture a firearm or a firearm part, then it is difficult to understand the proportionality argument based on artwork or things that cannot be used to manufacture a firearm or part, which would not in any case be an offence.

1.16 The Committee notes that the offence in section 228A(1) does not apply if the person possesses the digital blueprint “to undertake scientific, medical, educational, military or law enforcement research that has been approved by the registrar in writing...”

1.17 The statement states that:

The exceptions in new section 228A (3) (c) assist the compatibility of the offence with the right to freedom of expression by allowing a person to possess a blueprint for research purposes, subject to approval from the registrar.

1.18 However, as the statement notes, this exception does not apply to possession for artistic purposes. The statement attempts to rationalise this by saying:

The exceptions do not cover possession of blueprints for artistic purposes. This is considered appropriate given the significant risks associated with unauthorised possession of a digital blueprint and that artistic endeavours are typically subject to less stringent controls than research activities, which are typically subject to ethics approvals, academic protocols and statutory frameworks.

1.19 Further, the statement states that the limitations are only “minor” and justified by reference to the “significant harms the offence seeks to prevent.”

1.20 The Committee notes that the new offence is very broadly drawn, especially given the new definitions of “computer” “digital blueprint” and “possession”. See paragraph 1.29 below for more detailed discussion. The Committee also notes that manufacture of a firearm is an existing serious offence under the *Firearms Act* (section 228).

1.21 **The Committee requests the Minister to confirm that the new section 228A(1) will prohibit possession for artistic or general interest regardless of the purposes of possession if the item “may be manufactured” by using the blueprint with a computer-aided manufacturing device.**

1.22 **The Committee also requests the Minister to revise the explanatory statement to explain more clearly how the limitation on the right to freedom of expression created by new section 228A is proportionate to the object of the Bill given the breadth of the new offence.**

The Committee draws this matter to the attention of the Assembly and asks the Minister to respond prior to the Bill being debated.

Rights in criminal proceedings (section 22 HRA)

- 1.23 As identified and explained in the explanatory statement, a core component of the rights in criminal proceedings set out in section 22 of the HRA is the right to be presumed innocent until proved guilty according to law. The new offence created by section 228A(1) is set out above in paragraph 1.11. Section 228A(2) (also set out above) provides that strict liability applies to the components of the offence in subsections (1)(b) and (c). As the explanatory statement identifies:

The application of strict liability to elements [(b) and (c)] of the offence in section 228A (1) limits the right to be presumed innocent, as it allows the defendant to be convicted of the offence with no requirement for the prosecution to prove fault in relation to those elements.

- 1.24 The absence of the requirement to prove fault means that the prosecution does not have to prove intent for elements (b) and (c). New definitions for each of the terms “computer” “digital blueprint” and “possession” are inserted by new section 228A(6).
- 1.25 The Bill does provide for exceptions to the offence in section 228A(3) which imposes an evidential burden on the person charged.² There are also specific defences in new section 228A(4):

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—

- (a) the defendant did not know, and could not reasonably be expected to have known, that the defendant possessed the digital blueprint; or
- (b) the digital blueprint came into the defendant’s possession unsolicited and, as soon as they became aware of its nature, the defendant took reasonable steps to remove the blueprint from their possession.

- 1.26 These defences impose the legal burden on the person charged with the offence.
- 1.27 The Department of Justice and Community Safety’s *Guide for Framing Offences* (2010) provides some guiding principles for the use of strict liability offences. This Guide is informed by a Report of the ACT’s Standing Committee on Legal Affairs following an inquiry into Strict and Absolute Liability Offences in 2008.³
- 1.28 Several key guiding principles regarding use of strict liability offences can be identified from these materials:
- (i) strict liability offences should only apply to “regulatory” offences;⁴
 - (ii) strict liability offences should only be aimed at the less serious side of the criminal spectrum, and the maximum penalty should generally be limited to a monetary penalty (50 penalty units);⁵

² In summary, these are being authorised under the Firearms Act, possession for carrying out public or official duties, and possession for scientific and other research that is approved by the registrar and does not contravene a condition of approval.

³ <https://www.parliament.act.gov.au/parliamentary-business/in-committees/previous-assemblies/Standing-Committees-Sixth-Assembly/Standing-Committee-on-Legal-Affairs/07.-Strict-and-Absolute-Liability-Offences>

⁴ Department of Justice and Community Safety, *Guide for Framing Offences* (2010) (“Guide”) p. 27.

⁵ Guide p. 29; Standing Committee on Legal Affairs, *Strict and Absolute Liability Offences* (2008) (“Report”) [5.3].

- (iii) in the exceptional case where imprisonment is considered appropriate, it should be a maximum of six months;⁶
- (iv) justifications for the limitation on the right to be presumed innocent based on the potential for ‘serious harm’ and concerns in relation to prosecutorial difficulty are not valid justifications for a strict liability offence;⁷
- (v) there “needs to be a real and transparent justification for making offences strict...liability so that people are not unwittingly caught by them”;⁸ and
- (vi) strict liability offences should not be framed so as to “catch the general public for inadvertent breaches of the law”.⁹

1.29 The Committee notes the following with respect to the new section 228A offence:

- new section 228A is not a regulatory offence. While it is contained within an Act that establishes a regulatory scheme in relation to firearms, the offence created by new section 228A applies not only to those participants in the scheme who “know, or ought to know” their legal obligations, but will also apply to members of the general public;
- related to the above point about the application of the new section 228A(1) offence, the key terms “firearm”¹⁰ (existing definition) and new definitions “possession” “computer” and “digital blueprint” (inserted by new subsection 228(6)) are broadly drawn. Clause Note 12 states, in relation to the new definitions, that the new definitions are “intentionally broad “to ensure that a person cannot escape prosecution for the offence on a merely technical basis” (though does not explain what such a technical basis might be);
- also related to the first point, subsection (1)(c) only requires that the firearm or firearm part “may be” manufactured using the blueprint;
- the maximum penalty for contravention of section 228A(1) is 500 penalty units or 5 years imprisonment or both; and
- the justification provided in the explanatory statement for the imposition of strict liability focusses on harm and the ability for effective prosecution. For example:

Requiring the prosecution to prove fault in relation to whether a blueprint captures a firearm or part, or whether the blueprint can be used in computer-aided manufacture, would significantly limit the extent to which the offence can be effectively prosecuted.

...

The limitations on the right to be presumed innocent associated with the application of strict liability and the imposition of evidential and legal burdens (see below) are proportionate to achieving the legitimate objective of the measures, which aim to ensure that the offence can be effectively prosecuted and acts as a deterrent to the relevant misconduct. This is considered critical given the seriousness of the offence and the harms it aims to prevent—including harms associated with possession and use of privately manufactured firearms by criminal actors.

⁶ Guide p. 29.

⁷ Report [5.12]. See also Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Scrutiny Report No 24* (October 2024) p 9 where it is explained that these justifications apply as much to serious crimes proscribing harm to a person or to significant property deprivation where it is accepted there must be a mental element.

⁸ Report [5.7].

⁹ Guide p. 27; Report [5.20].

¹⁰ Firearms Act s 6.

- 1.30 The Committee therefore notes that aspects of the new offence do not appear to be consistent with the guiding principles for use of strict liability offences, nor does the explanatory statement rationalise the limitation on the rights in criminal proceedings by reference to a real and transparent justification that is beyond notions of harm and effective prosecution.
- 1.31 The Committee notes that the new section 228A does provide for limited exceptions and two defences. However, without clearer and more transparent proportionality and justification discussion, it is difficult for the Committee to evaluate the degree to which these exceptions and defences justify the limitation on the right to be presumed innocent.
- 1.32 The Committee is also unclear about the relationship between the first element of the offence, section 228A(1)(a) (“possession of a digital blueprint for an item”) and the defence in section 228A(4)(a) (“defendant did not know, and could not reasonably be expected to have known, that the defendant possessed the digital blueprint”). If section 228A(1)(a) does require the prosecution to establish intent to possess (as the strict liability under section 228A(2) only applies to (b) and (c)), then it is not clear how the defence in subsection (4)(a) operates.
- 1.33 **The Committee refers these matters to the Assembly and, in light of the guiding principles on use of strict liability offences, requests the Minister to (i) revise the explanatory statement to provide a clearer and more specific justification for the strict liability offence; and (ii) consider amending the penalty in section 228A(1), or to revise the explanatory statement to provide an appropriate justification for the penalty.**
- 1.34 **The Committee also requests the Minister to revise the explanatory statement to explain how sections 228A(1)(a) and section 228A(4)(a) are intended to operate together.**

The Committee draws this matter to the attention of the Assembly and asks the Minister to respond prior to the Bill being debated.

- 1.35 Clauses 5 to 7 of the Bill impose an additional condition on various firearms licences. These Clauses provide that the licensee must comply with any limitation on the number of firearms they may possess that are imposed by new section 52A.
- 1.36 Clauses 14 to 20 of the Bill add a new prohibited firearm and substitute the list of firearms in different categories to impose further restrictions on the firearms authorised under the relevant category.
- 1.37 **The Committee requests the Minister to confirm that breach of these new conditions does not result in contravention of a strict liability offence under the Firearms Act, and to confirm that the substitution of the list of firearms does not change the scope of any existing strict liability offences under the Firearms Act.**

The Committee draws this matter to the attention of the Assembly and asks the Minister to respond prior to the Bill being debated.

Government responses—Comment

Bills

Justice and Community Safety Legislation Amendment Bill 2025 (No 3)

- 1.38 The Committee received a response from the Attorney-General dated 1 February 2026 in relation to comments made in *Scrutiny Report No 14* (January 2026) on the Justice and Community Safety Legislation Amendment Bill 2025 (No 3).
- 1.39 In its Report, the Committee had queried the characterisation of the Bill as a ‘non-significant’ Bill in the explanatory statement even though it limited several human rights under the HRA. Although the Committee did not request a response from the Government, the Attorney-General has provided a clear and helpful explanation for why the Government characterised the Bill as not significant, referring to criteria in the Cabinet Handbook.
- 1.40 Also in its *Scrutiny Report No 14*, the Committee noted the potential for the right to privacy to be limited by the amendments made by the Bill to the *Major Events Act 2014* (clause 34) and to the *Wills Act 1968* (clause 43) and requested the Attorney-General to address this issue.
- 1.41 The Attorney-General has advised that the amendment made by clause 34 to the *Major Events Act 2014* does not alter the scope of the search powers as the clause is enacted to align the wording with linked offences in the same Division. The Attorney-General has provided a revised explanatory statement with a revised Clause Note 34 to clarify the point.
- 1.42 In relation to the Committee’s point on the *Wills Act 1968*, the Attorney-General has thanked the Committee for identifying the issue. The revised explanatory statement provided by the Attorney-General now addresses the potential limitation on the right to privacy and provides an explanation of the proportionality and justification for the limitation. The Committee refers the Assembly to that discussion.
- 1.43 The Committee thanks the Attorney-General for her response and the revised statement, and notes that the Bill was passed by the Assembly on 5 February 2026.

Liquor Amendment Bill 2025

- 1.44 The Committee received a response from the Attorney-General dated 6 February 2026 in relation to comments made in *Scrutiny Report No 13* (December 2025) on Government amendments to the Liquor Amendment Bill 2025.
- 1.45 In its report, the Committee addressed the discussion in the explanatory statement about the limitation on the right to privacy and reputation created by the proposed provisions about the collection of personal information from customers in various circumstances. The Committee noted the discussion in the statement about privacy safeguards. However, given the sensitive nature of the information that would potentially be collected, the Committee requested the Minister to revise the statement, or to provide a more detailed explanation, about the privacy safeguards especially where the *Privacy Act 1988* (Cwlth) does not apply.
- 1.46 In their response, the Attorney-General identifies and expands on the legal safeguards available to customers as well as noting relevant market considerations.
- 1.47 The Committee refers the Assembly to the discussion in the Attorney-General’s letter and thanks the Attorney-General for their response.

Proposed amendments

Planning (Territory Priority Project) Amendment Bill 2025

- 1.48 The Committee received a response from the Minister for Planning and Sustainable Development dated 2 February 2026 in relation to its comments in *Scrutiny Report No 13* (December 2025) on Government amendments to the Planning (Territory Priority Project) Amendment Bill 2025.
- 1.49 In its report, the Committee noted a duplication in the Clause Notes in the supplementary explanatory statement.
- 1.50 In their response, the Minister agreed there had been an error. However, he advised that the Government amendments were not moved, and the Bill was passed by the Assembly on 3 December 2025. Accordingly, a revised supplementary explanatory statement is not needed.
- 1.51 The Committee thanks the Minister for his response and for the information about the passage of the Bill.

Territory Records (Executive Records) Amendment Bill

- 1.52 The Committee received a response from the Minister for Health dated 2 February 2026 in relation to comments made in *Scrutiny Report No 14* (January 2026) on Government amendments to the Territory Records (Executive Records) Amendment Bill.
- 1.53 In its report, the Committee requested the Minister to provide clarification on the scope of the new section 31KA (which permits the Ombudsman to require additional information in relation to an application) and its impact on the right to privacy.
- 1.54 The Committee notes the Minister has responded that the new section will only operate “to allow the Ombudsman to seek information” and not to compel the information. To clarify, the Committee notes that the wording of the new section 31KA is that the Ombudsman “may *require*” the applicant or officer to give additional information and if they do not, then the Ombudsman may refuse the application.
- 1.55 The Minister has provided a revised supplementary explanatory statement to the Government amendments which addresses the impact on the right to privacy of new section 31KA. The Committee refers that statement to the Assembly.
- 1.56 The Committee thanks the Minister for her response and the revised statement, and notes that the Bill was passed by the Assembly on 5 February 2026.

2. Subordinate Legislation

Disallowable Instruments—No comment

2.1 The Committee has examined the following disallowable instruments and has no comments on them:

- **Disallowable Instrument DI2025-294** being the **City Renewal Authority and Suburban Land Agency (Agency Board Deputy Chair) Appointment 2025 (No 1)** made under section 45 of the *City Renewal Authority and Suburban Land Agency Act 2017* appoints a specified person as deputy chair of the Suburban Land Agency Board.
- **Disallowable Instrument DI2025-296** being the **Board of Senior Secondary Studies Appointment 2025 (No 6)** made under section 8 of the *Board of Senior Secondary Studies Act 1997* appoints a specified person as a member of the ACT Board of Senior Secondary Studies for a period of three years.
- **Disallowable Instrument DI2025-297** being the **Food (Fees) Determination 2025 (No 1)** made under section 150 of the *Food Act 2001* revokes DI2024-309 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-298** being the **Medicines, Poisons and Therapeutic Goods (Fees) Determination 2025 (No 1)** made under section 197 of the *Medicines, Poisons and Therapeutic Goods Act 2008* revokes DI2024-307 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-299** being the **Public Health (Fees) Determination 2025 (No 1)** made under section 137 of the *Public Health Act 1997* revokes DI2024-306 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-300** being the **Radiation Protection (Fees) Determination 2025 (No 1)** made under section 120 of the *Radiation Protection Act 2006* revokes DI2024-317 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-301** being the **Tobacco and Other Smoking Products (Fees) Determination 2025 (No 2)** made under section 70 of the *Tobacco and Other Smoking Products Act 1927* revokes DI2025-93 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-302** being the **Health Records (Privacy and Access) (Fees) Determination 2025 (No 1)** made under section 34 of the *Health Records (Privacy and Access) Act 1997* revokes DI2024-316 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2025-305** being the **Auditor-General Appointment 2025** made under section 8 of the *Auditor-General Act 1996* appoints a specified person as Auditor-General.
- **Disallowable Instrument DI2025-309** being the **Major Events (Summernats 38) Declaration 2025** made under section 6 of the *Major Events Act 2014* declares Summernats as a Major Event and to enliven powers and offences under the Act, Part 3 (Crowd Management) for police officers.

- Disallowable Instrument DI2025-311 being the Civil Law (Wrongs) CPA Australia Professional Standards Scheme 2025 made under section 4.10, Schedule 4 of the *Civil Law (Wrongs) Act 2002* revokes DI2025-215 and gives notice of the Professional Standards Council of New South Wales' approval of the CPA Australia Professional Standard scheme.
- Disallowable Instrument DI2025-312 being the Education (Registration Standards Advisory Board) Appointment 2025 (No 1) made under section 78 of the *Education Act 2004* appoints a specified person as a member of the Registration Standards Advisory Board for a period of three years.
- Disallowable Instrument DI2025-313 being the Education (Registration Standards Advisory Board) Appointment 2025 (No 2) made under section 78 of the *Education Act 2004* appoints a specified person as a member of the Registration Standards Advisory Board for a period of three years.
- Disallowable Instrument DI2025-314 being the Road Transport (Public Passenger Services) Public Transport Fares Determination 2025 (No 1) made under section 23 of the *Road Transport (Public Passenger Services) Act 2001* revokes DI2024-321 and provides the maximum fares payable for travel on regular route bus services provided by Transport Canberra and on light rail services.
- Disallowable Instrument DI2025-315 being the Nature Conservation (Scientific Committee) Appointment 2025 made under sections 36 and 37 of the *Nature Conservation Act 2014* revokes DI2024-100 and appoints various specified persons as members and chair and deputy chair of the Scientific Committee.
- Disallowable Instrument DI2025-318 being the Road Transport (General) Exclusion of Road Transport Legislation (Summernats) Declaration 2025 made under section 12 and 13 of the *Road Transport (General) Act 1999* provides that the Minister may declare that the road transport legislation, or a provision of the road transport legislation, does not apply to a road or road related area.
- Disallowable Instrument DI2025-319 being the Building and Construction Industry Training Levy (Governing Board) Appointment 2025 (No 2) made under section 6 of the and section 78 of the *Building and Construction Industry Training Levy Act 1999* and *Financial Management Act 1996* appoints a specified person as a member of the Building and Construction Industry Training Fund Governing Board for a period of three years.
- Disallowable Instrument DI2025-321 being the Taxation Administration (Amounts Payable—Ambulance Levy) Determination 2025 made under section 139 of the *Taxation Administration Act 1999* revokes DI2024-319 and determines RA for the reference months January 2026 to December 2026.
- Disallowable Instrument DI2025-325 being the Veterinary Practice (Board) Appointment 2025 (No 4) made under section 93 of the *Veterinary Practice Act 2018* appoints a specified person to the Veterinary Practitioners Board as a veterinary practitioner member for a period of three years.

Disallowable Instruments—Comment

- 2.2 The Committee has examined the following disallowable instruments and offers these comments on them:

Minor drafting issue—Is this a disallowable instrument?

- **Disallowable Instrument DI2025-295 being the University of Canberra Council Appointment 2025 (No 3) made under section 11 of the *University of Canberra Act 1989* revokes DI2024-254 and appoints a specific person as a member of the University of Canberra Council for a period of three years.**
- 2.3 This instrument, made under section 11 of the *University of Canberra Act 1989*, appoints a specified person as a member of the University of Canberra Council.
- 2.4 The appointment is made by disallowable instrument, bringing it within the Committee’s scrutiny role.
- 2.5 The Committee notes that section 227 of the *Legislation Act 2001* deals generally with the making of appointments to statutory positions by Ministers. It provides:
- 227 Application—div 19.3.3**
- (1) This division applies if a Minister has the power under an Act to appoint a person to a statutory position.
- (2) However, this division does not apply to an appointment of—
- (a) a public servant to a statutory position (whether or not the Act under which the appointment is made requires that the appointee be a public servant); or
- (b) a person to, or to act in, a statutory position for not longer than 6 months, unless the appointment is of the person to, or to act in, the position for a 2nd or subsequent consecutive period; or
- (c) a person to a statutory position if the only function of the position is to advise the Minister.
- 2.6 In the light of paragraph 227(2)(a) of the *Legislation Act*, the Committee has consistently maintained that instruments of appointment should clearly state that the appointee is not a public servant, in order to make clear that, in fact, the appointment should be made by way of disallowable instrument. In its document titled [Subordinate legislation—Technical and stylistic standards—Tips/Traps](https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/434347/Subordinate-Legislation-Technical-and-Stylistic-Standards-Tips/Traps),¹¹ the Committee stated:
- Under paragraph 227(2)(a) of the *Legislation Act 2001*, an instrument of appointment is not disallowable if it appoints a public servant. As a result, it assists the Committee (and the Legislative Assembly), if the explanatory statement for an instrument of appointment contains a statement to the effect that “the person appointed is not a public servant”.
- 2.7 The Committee notes that the explanatory statement for the instrument mentioned above contains no such statement.

¹¹ https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/434347/Subordinate-Legislation-Technical-and-Stylistic-Standards.pdf.

- 2.8 The Committee seeks the Minister's confirmation that the person appointed by the instrument mentioned above is not a public servant.
- 2.9 The Committee draws the attention of the Legislative Assembly to this instrument, under principle (10)(d) of the Committee's resolution of appointment, on the basis that the explanatory statement for the instrument does not meet the technical or stylistic standards expected by the Committee.

This comment requires a response from the Minister. The Committee would be grateful if the Minister could respond before the Legislative Assembly's capacity to move to disallow the instrument law expires.

No human rights issues

- Disallowable Instrument DI2025-303 being the Road Transport (General) Numberplate Fees Determination 2025 (No 5) made under section 96 of the *Road Transport (General) Act 1999* revokes DI2025-242 and determines fees for transactions relating to vehicle numberplates and the rights to registration numbers issued under the road transport legislation.
 - Disallowable Instrument DI2025-306 being the Public Place Names (Dickson) Revocation 2025 made under section 3 of the *Public Place Names Act 1989* revokes the determination of the delegate of the Minister of State and gives the Minister power to determine the name of a division or public place.
- 2.10 The Committee notes that the explanatory statement for each of the instruments mentioned above contains a statement to the effect that no human rights are engaged by the instrument.
- 2.11 The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statements for these instruments.
- 2.12 This comment does not require a response from the relevant Minister.

Human rights issues

- Disallowable Instrument DI2025-304 being the Road Transport (General) (Vehicle Impounding and Seizure/Speed Trial) Fees Determination 2025 made under section 96 of the *Road Transport (General) Act 1999* revokes DI2005-102 and determines fees payable for the purposes of the Act.
- 2.13 This instrument, made under section 96 of the *Road Transport (General) Act 1999* determines fees payable for the purposes of that Act.
- 2.14 The explanatory statement for the instrument discusses human rights issues:

Human rights

This instrument may limit the right to freedom of movement under section 13 of the *Human Rights Act 2004*. This impact is due to the daily storage fee costs from a vehicle seized and impounded by ACT Policing, which may delay the vehicle's release.

Any limitation on the right to freedom of movement from the daily storage fee is proportionate to achieving the aim of deterring dangerous driving. Alternative transport remains available to individuals who are unable to have their vehicle released after seizure, such as public transport.

- 2.15 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.**
- 2.16 **This comment does not require a response from the Minister.**

Human rights issues

- **Disallowable Instrument DI2025-307 being the Nature Conservation (Protected Native Species List) Criteria and Processes 2025 made under section 113 of the *Nature Conservation Act 2014* revokes DI2017-294 determines the criteria and processes to be used in deciding whether a species is eligible to be included in a category on the Protected Native Species List.**
- 2.17 This instrument, made under section 113 of the *Nature Conservation Act 2014*, determines the criteria and processes to be used in deciding whether a species is eligible to be included in a category on the Protected Native Species List, provided for by section 111 of that Act.
- 2.18 The explanatory statement for the instrument discusses human rights issues:

Human rights impacts

The instrument engages the right to a clean, healthy and sustainable environment (section 27C (1) of the *Human Rights Act 2004*). It outlines the criteria and processes for determining native plants and animals in the ACT that require protection. Safeguarding these species reduces the risk of their extinction, contributing to the conservation of biodiversity in the ACT. Biodiversity is crucial for providing essential ecosystem services such as clean air, fresh water, and productive soil, which are vital for human health and economic prosperity for both the present and future generations.

The criteria themselves do not remove or create rights, liberties or obligations except for the obligation on the scientific committee to use the criteria in making an assessment and by the Minister in making a listing decision.

- 2.19 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.**
- 2.20 **This comment does not require a response from the Minister.**

Human rights issues

- **Disallowable Instrument DI2025-308 being the Motor Accident Injuries (Quality of Life Benefit) Guidelines 2023 made under section 487 of the *Motor Accident Injuries Act 2019* revokes DI2023-311 and makes the Quality of Life Benefit Guidelines.**
- 2.21 This instrument, made under section 487 of the *Motor Accident Injuries Act 2019*, makes Quality of Life Benefit Guidelines, for that Act. Those guidelines are relevant to the determination of “quality of life benefits” under Part 2.6 of the Act.
- 2.22 The explanatory statement for the instrument discusses human rights issues:

Human Rights

Noting that these guidelines have previously been made, during the review and updating of the guidelines the right to privacy (section 12, *Human Rights Act 2004*) was again considered. Personal information and health information needs to be provided to commence a quality of life benefits application, and these guidelines give effect to the type of information that is collected for the form that is made for this purpose by the MAI [Motor Accident Injuries] Commission.

By necessity, a person's health information is required to be collected by the MAI insurer if not already held by them and shared with an authorised IME [Independent Medical Examinations] provider. Appropriate protections are required to be in place by the MAI insurer and the authorised IME Provider.

In relation to a second WPI [Whole Person Impairment] report, an injured person will need to make the appropriate enquiries of their own relating to the protection of their right to privacy from the service provider. The MAI Commission does not have oversight of private organisations that provide a report that is sought in response to the first WPI report.

- 2.23 **The Committee is concerned by the proposition, above, that an injured person “will need to make the appropriate enquiries of their own relating to the protection of their right to privacy from the service provider”. The Committee seeks further information from the Minister about how this situation comes to be, what sorts of mechanisms *might* be available and what resources are available to injured persons in protecting their privacy rights.**

This comment requires a response from the Minister. The Committee would be grateful if the Minister could respond before the Legislative Assembly's capacity to move to disallow the instrument law expires.

Human rights issues

- **Disallowable Instrument DI2025-309 being the Major Events (Summernats 38) Declaration 2025 made under section 6 of the *Major Events Act 2014* declares Summernats as a Major Event and to enliven powers and offences under the Act, Part 3 (Crowd Management) for police officers.**

- 2.24 This instrument, made under section 6 of the *Major Events Act 2014*, declares Summernats 38 as a “Major Event”, which enlivens powers and offences under Part 3 of that Act, in relation to crowd management, for police officers.

- 2.25 The explanatory statement for the instrument discusses human rights issues:

The effect of this declaration is to enliven powers and offences under the Act, Part 3 (Crowd Management) for police officers. Crowd management in Part 3 of the Act includes offences in relation to the possession of prohibited items and interference with the events. Part 3 also provides crowd management powers including the power to search personal property, to conduct scanning searches and frisk searches.

While a major event declaration enlivens extraordinary powers for police officers, these additional crowd control powers will provide for the safe conduct of the event in 2026, considering the significant numbers of spectators and entrants. Extraordinary powers enlivened under a major event declaration are strictly time-bound and limited to the event venue.

The powers enlivened for a major events declaration and the reduced threshold for the exercise of powers engages and limits rights under the *Human Rights Act 2004* (ACT; HR Act), including the right to privacy under s 12, right to liberty and security of the person under s 18, and right to freedom of expression under s 16. Section 28 of the HR Act provides that rights may be subject to reasonable limits that can be demonstrably justified in a free and open democratic society.

The powers enlivened under a major events declaration have proportionate limitations on the duration and scope of their application to provide for the safe and secure conduct of Summernats 38. The powers are only sought for the event venue, and the power of detention by police officers is a power of last resort to protect the community and event. Strict liability offences enacted apply only to conduct that may threaten safety or security at an event.

The limitations on individual human rights allow for effective risk management to prevent potential incidents or harm to attendees. The major event declaration follows deteriorating safety and crowd control incidents in 2023 and 2024 that supported additional crowd control powers for the safe and efficient hosting of the event in future years.

Alcohol and petrol have been excluded from the meaning of prohibited items in s12(1)(a) of the Act, as alcohol will be sold by authorised licenced vendors during the event and petrol will be available for refuelling within the event venue.

The powers enlivened under this declaration have appropriate limitations on the duration and scope of their application to provide for the safe and secure conduct of Summernats 38.

Summernats was previously hosted with a major event declaration in 2025. This supported organisers to run a safe and secure event for spectators and entrants.

A major events declaration does not restrict peaceful assembly or gatherings, and the restrictions in the *Major Events Act 2014* do not apply to public protests.

2.26 The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.

2.27 This comment does not require a response from the Minister.

Human rights issues

- **Disallowable Instrument DI2025-310 being the Climate Change and Greenhouse Gas Reduction (Greenhouse Gas Emissions Measurement Method) Determination 2025 made under section 11 of the *Climate Change and Greenhouse Gas Reduction Act 2010* revokes DI2024-311 and determines the method for measuring the amount of greenhouse gas emissions in the ACT.**

2.28 This instrument, made under section 11 of the *Climate Change and Greenhouse Gas Reduction Act 2010*, determines the method for measuring the amount of greenhouse gas emissions in the ACT.

2.29 The explanatory statement for the instrument discusses human rights issues:

Human Rights

Section 27C (1) of the *Human Rights Act 2004* provides that everyone has the right to a clean, healthy and sustainable environment. This determination engages and promotes the right to a healthy environment by providing a methodology for Government to calculate the total greenhouse gases in the ACT and make this information publicly available, noting that the right to a healthy environment includes providing public access to information about the environment.

2.30 The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.

2.31 This comment does not require a response from the Minister.

Human rights issues

- **Disallowable Instrument DI2025-316 being the Urban Forest (Remediation of Land) Declaration 2025 (No 1) made under section 137 of the *Urban Forest Act 2023* removes administrative and financial barriers to the remediation of contaminated land where there are protected trees on that land.**
- 2.32 This instrument is made under section 137 of the *Urban Forest Act 2023*. The explanatory statement for the instrument states:
- The purpose of this instrument is to remove administrative and financial barriers to the remediation of contaminated land where there are protected trees on that land. This declaration disapplies elements of the Act in order to facilitate necessary remediation work. In doing this, the declaration disapplies as few provisions as possible, ensuring the objects of the Act continue to be met.
- 2.33 Substantively, the instrument disapplies subsections 28(1) (timeframes for approval decisions) paragraph 28(4)(a) (application of approval criteria) and paragraphs 36(3)(b) and (4)(b) (conditions on canopy contribution agreements) of the *Urban Forest Act*, in certain circumstances.
- 2.34 The explanatory statement for the instrument discusses human rights issues:
- Human Rights**
- This declaration supports human rights by helping to protect the right to a healthy environment [for section 27C of the *Human Rights Act 2004*]. The instrument removes barriers to the remediation of contaminated sites under the *Environment Protection Act 1997* without compromising the objects of the *Urban Forest Act 2023*.
- 2.35 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.**
- 2.36 **This comment does not require a response from the Minister.**

Human rights issues

- **Disallowable Instrument DI2025-317 being the Domestic Animals (Dog Control Areas) Declaration 2025 made under section 40 of the *Domestic Animals Act 2000* revokes DI2024-215 and DI2024-216 and declare specified areas as dog exercise areas.**
- 2.37 This instrument, made under section 40 of the *Domestic Animals Act 2000*, declares specified areas as dog exercise areas.
- 2.38 The explanatory statement for the instrument discusses human rights issues:
- Human rights**
- Declaring dog exercise and prohibited areas promotes the right to freedom of movement under section 13 of the *Human Rights Act 2004* and the right to a healthy environment under section 27C.
- Dog exercise areas allow individuals to walk their dogs off-lead within certain areas of the ACT which promotes those individuals to exercise their right to move freely within the ACT.
- Prohibiting dogs' access to certain areas, in particular prohibiting access to nature reserves, promotes the right to a healthy environment. Dog prohibited areas prevent dogs from harassing native species that may be present in the area and thus promote biodiversity within the area.

2.39 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.**

2.40 **This comment does not require a response from the Minister.**

Human rights issues

- **Disallowable Instrument DI2025-320 being the Blood Donation (Transmittable Diseases) Blood Donor Form 2025 (No 1) made under subsection 10(3) of the *Blood Donation (Transmittable Diseases) Act 1985* revokes DI2022-239 and approves a blood donor form.**

2.41 This instrument, made under subsection 10(3) of the *Blood Donation (Transmittable Diseases) Act 1985*, approves a blood donor form.

2.42 The explanatory statement for the instrument discusses human rights issues:

CONSISTENCY WITH HUMAN RIGHTS

The Instrument engages the following sections of the *Human Rights Act 2004* (Human Rights Act):

Section 8 – Right to recognition and equality before the law (promoted)

Section 12 – Right to privacy (limited)

The right to recognition and equality before the law under section 8 of the Human Rights Act includes the right to equal protection of the law without discrimination. The Instrument promotes this right by implementing gender-neutral assessments, which means that all donors will be asked the same sexual activity questions regardless of their sex, gender or sexuality.

The Instrument limits the right to privacy under section 12 of the Human Rights Act as it approves a form requiring the collection, storage and use of personal information for a person to become a blood donor. The collection of this information serves the legitimate purposes of, and is rationally connected to, ensuring blood donations are safe and suitable, as well as promoting sustainable blood supply.

The right to privacy is only limited by the Instrument to the extent necessary to achieve the legitimate purposes of enabling safe blood donation and promoting sustainable blood supply. The information collected is limited to what is necessary to determine a person's eligibility to donate blood, ensure the safety of both donors and recipients, to contact the donor for future donations, and assist with research including improving the safety of transfusion and donation; as outlined in the form. By adopting the GNA [gender-neutral assessments], the revised form better balances the limitation of the right to privacy. The GNA approach ensures that information which is connected to sex, gender or sexuality, which is not therapeutically necessary, is not collected. Further, the donation of blood is on an entirely voluntary basis, and a person's private information only must be shared by that person if they choose to donate blood. The information shared must also be handled in accordance with protections under the *Privacy Act 1988* (Cth) and *Health Records (Privacy and Access) Act 1997*, which provides a range of further protections to ensure the privacy of blood donors is protected. For these reasons the limitation on privacy is reasonable and proportionate to achieving the purposes of a safe and sustainable blood supply.

2.43 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.**

2.44 **This comment does not require a response from the Minister.**

Human rights issues

- **Disallowable Instrument DI2025-322 being the Lifetime Care and Support (Catastrophic Injuries) Rehabilitation Guidelines 2025 made under section 93 of the *Lifetime Care and Support (Catastrophic Injuries) Act 2014* revokes DI2014-208 and makes Guidelines to give effect to the operation of the LTCS Scheme.**
 - **Disallowable Instrument DI2025-323 being the Lifetime Care and Support (Catastrophic Injuries) Attendant Care Services Guidelines 2025 made under section 93 of the Lifetime Care and Support (Catastrophic Injuries) Act 2014 revokes DI2014-209 and makes Guidelines to give effect to the operation of the LTCS Scheme.**
 - **Disallowable Instrument DI2025-324 being the Lifetime Care and Support (Catastrophic Injuries) Workplace and Education Facility Modifications Guidelines 2025 made under section 93 of the Lifetime Care and Support (Catastrophic Injuries) Act 2014 makes Guidelines to give effect to the operation of the LTCS Scheme.**
- 2.45 Each of the instruments mentioned above is made under section 93 of the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*, under which the Lifetime Care and Support (LTCS) commissioner may make LTCS guidelines about any matter required or permitted by that Act. The first 2 instruments mentioned above revoke an existing instrument.
- 2.46 The subject matter of the various Guidelines is reflected in their titles, i.e.:
- (Catastrophic Injuries) Rehabilitation;
 - (Catastrophic Injuries) Attendant Care Services; and
 - (Catastrophic Injuries) Workplace and Education Facility Modifications.
- 2.47 The explanatory statement for each instrument addresses human right issues. The explanatory statement for the first instrument mentioned above states:
- Consistency with Human Rights**
- The guidelines are considered to promote human rights, by providing guidance on the reasonable and necessary rehabilitation needs available to a participant in the LTCS Scheme. It is to be noted the Scheme provides universal cover for a person's lifetime care needs, while also allowing the Commissioner to assess needs against the individual circumstances of a participant. It is considered these guidelines positively engage with section 8, Recognition and equality before the law, and section 11, Protection of the family and children, of the *Human Rights Act 2004*. Rehabilitation can be an important part of helping the injured person and their families, especially where rehabilitation will enhance the functioning of the injured person.
- 2.48 Similar statements appear in the explanatory statements for the other 2 instruments mentioned above.
- 2.49 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statements for the instruments mentioned above.**
- 2.50 **This comment does not require a response from the Minister.**

Subordinate Laws—Comment

2.51 The Committee has examined the following subordinate laws and offers these comments on them:

- **Subordinate Law SL2025-25 being the Magistrates Court (Environment Protection Infringement Notices) Amendment Regulation 2025 (No 1) made under the *Magistrates Court Act 1930* provides for a system of infringement notices for certain offences as an alternative to prosecution.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

Right to presumption of innocence (subsection 22(1) HRA)

2.52 Part 3.8 of the *Magistrates Court Act 1930* creates a system of infringement notices for certain offences, as an alternative to prosecution. Under section 119 of that Act, regulations may be made prescribing offences as infringement notice offences. This subordinate law is made for section 119 and creates will allow infringement notices to be issued in relation to certain offences under the *Environment Protection Act 1997* and the *Environment Protection Regulation 2005*.

2.53 The explanatory statement notes that the new offences include a strict liability offence, which engages the right to the presumption of innocence, protected by subsection 22(1) of the *Human Rights Act 2004*. The explanatory statement states:

The *Environment Protection (Industrial Chemicals) Amendment Regulation 2025* (the **Amendment Regulation**) will introduce Part 5A to the EP Regulation to implement agreed national regulatory reforms for the management of industrial chemicals and an article or product containing an industrial chemical. This includes the introduction of a new strict liability offence.

Human rights considerations for the introduction of the new strict liability offences are discussed in the explanatory statement to the Amendment Regulation.

2.54 That is, indeed, the case.¹²

2.55 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.**

2.56 **This comment does not require a response from the Minister.**

- **Subordinate Law SL2025-26 being the Work Health and Safety Amendment Regulation 2025 (No 1) made under section 276 of the *Work Health and Safety Act 2011* makes minor amendment to section 419 of the *Work Health and Safety Regulation 2011* to allow the Minister to declare activities that are considered minor or routine maintenance.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

2.57 The Committee notes that the explanatory statement for this subordinate law states:

The *Work Health and Safety Amendment Regulation 2025 (No 1)* (Amendment Regulation) makes a minor amendment to section 419 of the *Work Health and Safety Regulation 2011* (WHS Regulation). The amendment will allow the Minister to declare activities that are considered minor or routine maintenance, or minor work, for the purposes of section 419(3)(k) of the WHS Regulation.

¹² See <https://www.legislation.act.gov.au/sl/2025-17/>, though the Committee notes that the Amendment Regulation appears on the ACT Legislation Register as *Environment Protection (Industrial Chemicals) Amendment Regulation 2025 (No 1)*.

This amendment follows a number of product recalls by the Australian Competition and Consumer Commission for coloured sand products where the relevant health advice issued alongside the recalls has been that the products present a very low risk to human health.

As such, their removal and disposal from the workplace is considered to be aligned to the existing category of permitted asbestos-related works in accordance with the WHS Regulation, section 419(3).

- 2.58 The Committee notes that the explanatory statement for the subordinate law goes on to discuss human rights issues:

CONSISTENCY WITH HUMAN RIGHTS

All amendment regulations must be compatible with the *Human Rights Act 2004* (HRA). The Amendment Regulation is not considered to engage human rights.

- 2.59 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.**

- 2.60 **This comment does not require a response from the Minister.**

- **Subordinate Law SL2025-27 being the ACT Teacher Quality Institute Amendment Regulation 2025 (No 1) made under the *ACT Teacher Quality Institute Act 2010* amends the *ACT Teacher Quality Institute Regulation 2010* to establish an adapted model of registration for teachers who are over 60 and are teaching part-time or who wish to teach part time.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

- 2.61 This subordinate law amends the *ACT Teacher Quality Institute Regulation 2010*, to establish an adapted model of registration for teachers who are over 60 and are teaching part-time or who wish to teach part time.

- 2.62 The Committee notes that the explanatory statement for the subordinate law states that it does not engage human rights.

- 2.63 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.**

- 2.64 **This comment does not require a response from the Minister.**

- **Subordinate Law SL2025-28 being the Legal Profession (Solicitors) Conduct Rules 2025 (No 2) made under section 580 of the *Legal Profession Act 2006* revokes SL2015-37 and SL2025-24 and make rules for or in relation to practice as a solicitor, as an Australian-registered foreign lawyer and for incorporated legal practices and multi-disciplinary partnerships.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

Right to recognition and equality before the law (section 8 HRA)

Right to privacy and reputation (section 12 HRA)

Right to freedom of expression (section 16 HRA)

Right to a fair trial (section 21 HRA)

2.65 According to the explanatory statement, the Rules made by this subordinate law ...

... reflect the efforts of the Law Council of Australia (LCA) and its constituent bodies to move towards a uniform set of professional conduct rules in Australia. On the 1st of February 2018, the LCA began a comprehensive review of the Australian Solicitors' Conduct Rules. In 2021, the amended Australian Solicitors' Conduct Rules were accepted and implemented by the LCA. The ACT began its own review of its Rules in 2022, with proposed changes going to Council in September 2022. The consultation period began in 2025 and was delayed due to a decision to await the LCA's announcement regarding the review of Rule 38 of the Australian Solicitors' Conduct Rules.

2.66 The Committee notes that this subordinate law revokes and replaces the Legal Profession (Solicitors) Conduct Rules 2025 [SL2025-24], which the Committee considered in the previous Scrutiny Report, *Scrutiny Report 13* of the 11th Assembly. The Committee notes that the explanatory statement for the *new* subordinate law states that it "corrects a formatting anomaly in Rule 38 of [the previous version] which have may have given rise to an unintended interpretation."

2.67 The explanatory statement for the subordinate law also discusses human rights issues, by reference to the right to recognition and equality before the law, the right to privacy and reputation, the right to freedom of expression and the right to a fair trial, protected by sections 8, 12, 16 and 21 of the *Human Rights Act 2004*, respectively. Only the right to freedom of expression is limited. The other rights are promoted.

2.68 The explanatory statement states:

Nature of the right and the limitation (ss28(2)(a) and (c))

s16 of the *Human Rights Act 2004* (ACT) provides that everyone has the right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds. This includes the right to express views publicly, including in the context of legal proceedings.

Rule 28 of the Rules limits this right by restricting public comment during current proceedings. This limitation applies to legal practitioners and is intended to prevent commentary that could prejudice the administration of justice or undermine the fairness of proceedings.

Legitimate purpose (s28(2)(b))

The restriction serves the legitimate purpose of protecting the integrity of the judicial process and ensuring the right to a fair trial is upheld. Public commentary by legal practitioners during active proceedings may influence public perception, compromise impartiality, or place undue pressure on parties and the court. The limitation is designed to safeguard the administration of justice and maintain public confidence in the legal system.

Rational connection between the limitation and the purpose (s28(2)(d))

There is a clear and rational connection between the limitation and its intended purpose. By prohibiting public comment during proceedings, the Rules reduce the risk of prejudicial statements that could affect the fairness of a trial or the perception of judicial impartiality. This supports the broader objective of ensuring that justice is administered fairly and without external influence.

Proportionality (s28(2)(e))

The limitation is proportionate to the objective it seeks to achieve. It applies only in the context of current proceedings and only to legal practitioners, who have a heightened duty to uphold the integrity of the justice system. The restriction does not prevent practitioners from expressing views outside the scope of active matters or engaging in broader legal discourse. As such, the limitation is narrowly tailored and represents the least restrictive means of achieving the intended purpose.

2.69 The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.

2.70 This comment does not require a response from the Minister.

- **Subordinate Law SL2025-29 being the Medicines, Poisons and Therapeutic Goods Amendment Regulation 2025 (No 2) made under section 184 of the *Medicines, Poisons and Therapeutic Goods Act 2008* outlines the appropriate prescribing and supply of medicines and defines the concepts of deal, supply, prescribe and administer in relation to medicines.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

Right to life (section 9 HRA)

2.71 This subordinate law amends the *Medicines, Poisons and Therapeutic Goods Regulation 2008*.

According to the explanatory statement for the subordinate law, the amendments relate to:

- controlled medicines CHO [Chief Health Officer] standing approvals;
- duration of a CHO approval;
- revision of the definition of adrenaline as an emergency medicine;
- revision of the definition of an ambulance officer or paramedic and related provisions; and
- updates to endorsed prescribers.

2.72 The explanatory statement states that the subordinate law engages the right to life, engaged by section 9 of the *Human Rights Act 2004*. The explanatory statement states that the right is promoted.

2.73 The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.

2.74 This comment does not require a response from the Minister.

- **Subordinate Law SL2025-30 being the Motor Accident Injuries (ACAT Costs Orders) Amendment Regulation 2025 (No 1) made under the *Motor Accident Injuries Act 2019* provides for, among other things, the maximum amount of costs that can be awarded by the ACT Civil and Administrative Tribunal (ACAT) in respect of an application for external review by the ACAT of an insurer's decision under the Act.**

Report under section 38 of the *Human Rights Act 2004* (HRA)

2.75 According to the explanatory statement, this subordinate law “resets” the maximum amount of a costs order, by the ACT Civil and Administrative Tribunal (ACAT), under the *Motor Accident Injuries Act 2019*, from:

- \$2,000 (AWE indexed) plus the ACAT application fee, inclusive of GST; to
- \$4,000 (AWE indexed) plus the ACAT application fee, inclusive of GST

- 2.76 The explanatory statement states that the increased dollar amount applies to applications lodged with ACAT from after the commencement of the regulation and that the amount will then be adjusted in line with any change in AWE [average weekly earnings] on 1 October each year thereafter.
- 2.77 The explanatory statement for the subordinate law discusses human rights issues:

Human Rights Implications

The amending regulation has been considered in relation to compatibility with human rights as set out in the *Human Rights Act 2004* and the terms of reference of the Scrutiny Committee.

The increase in the amount of costs that may be awarded by ACAT will further facilitate an individual's opportunity to obtain legal assistance in making an external review application to ACAT. The amount may not cover all the legal costs that may arise in relation to the ACAT matter. The cap is to ensure that costs are not excessively incurred, especially as ACAT is generally a bear your own costs jurisdiction.

A balance is thus being made between the competing elements that go towards keeping the MAI scheme affordable for the Canberra community, while providing some support through allowing costs to be ordered by the ACAT for individuals in dispute with an MAI insurer.

- 2.78 **The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.**
- 2.79 **This comment does not require a response from the Minister.**

National Law—Comment

- 2.80 The Committee has examined the following National Law and offers these comments on it:

- **Rail Safety National Law—National Regulations (Safety Management System) Amendment Regulations 2025 (2025 No 520 South Australia).**

- 2.81 The Committee notes with approval that this National Law is accompanied by a detailed and helpful explanatory statement. The Committee also notes that the explanatory statement states that there are no human rights (or climate change) implications arising from the National Law.
- 2.82 **This comment does not require a response from the Minister.**

Chiaka Barry MLA
Chair

February 2026

Outstanding responses

Bills/Subordinate Legislation

Report 14, dated 27 January 2026

Bills

- Crimes Legislation Amendment Bill 2025 (No 2).
- Family, Personal and Sexual Violence Legislation Amendment Bill 2025.

Subordinate Legislation

- Disallowable Instrument DI2025-272 being the Children and Young People (Care and Protection Organisation) Standards 2025 (No 1).