



Legislative Assembly for the Australian Capital Territory

Standing Committee on Legal Affairs
(Legislative Scrutiny Role)

Scrutiny Report 17

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Approved for publication

11th Assembly
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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.

Committee members

Chiaka Barry MLA, Chair

Taimus Werner-Gibbings MLA, Deputy Chair

Shane Rattenbury MLA

Secretariat

Hamish Finlay, Committee Secretary

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Contact us

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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

Proposed amendments—No comment

Crimes Legislation Amendment Bill 2025 (No 2)

- 1.1 The Committee has received from the Attorney-General by letter dated 3 March 2026 proposed government amendments to the Crimes Legislation Amendment Bill 2025 (No 2), together with a revised explanatory statement for the Bill to include these amendments.
- 1.2 The government amendments:
 - (i) amend clause 2 of the Bill to extend the commencement date of section 17 of the Bill (from 3 months to 6 months after notification day). Section 17 is the provision of the Bill that expands the definition of “child-related employment” in the *Crimes (Child Sex Offenders) Act 2005*; and
 - (ii) amend Clauses 70 to 72 of the Bill which relate to amendments to the *Mental Health Act 2025* to “oppose” those Clauses. These amendments are in response to comments of the Committee made in its *Scrutiny Report No 14* (January 2026), addressed further below in “Government Responses”.
- 1.3 The Committee brings these matters and the revised explanatory statement in relation to the government amendments to the attention of the Assembly. The Committee notes that amendments should be addressed in a supplementary explanatory statement, rather than a revised explanatory statement, as the Assembly may or may not adopt the amendments.
- 1.4 The Committee notes that this Bill was passed in the Assembly on 19 March 2026, with a supplementary explanatory statement provided.

Government responses—Comment

Crimes Legislation Amendment Bill 2025 (No 2)

- 1.5 As noted above under “Proposed Amendments”, the Committee received a letter from the Attorney-General dated 3 March 2026 concerning the Crimes Legislation Amendment Bill 2025 (No 2). In that letter, in addition to the proposed government amendments to the Bill, the Attorney-General responded to comments made by the Committee on the Bill in its *Scrutiny Report 14* (January 2026) in relation to amendments made by the Bill to four Acts.
- 1.6 The Attorney-General has responded as follows:
 - (i) *Crimes (Child Sex Offenders) Act 2005* – in response to the Committee’s request, the Attorney-General has confirmed that no strict liability offences are impacted by the amendments.
 - (ii) *Crimes (Sentencing) Act 2005* – as requested by the Committee, the Attorney-General has revised the explanatory statement to incorporate a discussion on the limitation on the right to be presumed innocent arising from new section 43B and its proportionality.² The Committee refers that discussion to the Assembly. The

² Revised explanatory statement pp. 17 - 18.

Committee does note that part of the revised discussion in the statement (the section under “Proportionality”) is underlined and queries if this is an editing inadvertence.

- (iii) *Magistrates Court Act 1930* – in its *Scrutiny Report 14*, the Committee requested the Minister to amend the explanatory statement to explain why the identification of decisions that may be subject to the new framework for reviewable decisions is delegated to regulations. The Attorney-General has explained that this is to accommodate the wide range of offences covered by the framework. Clause Note 64 of the explanatory statement has been revised to provide an explanation. The Committee refers the explanation in the revised Clause Note 64 to the Assembly.
- (iv) *Mental Health Act 2015* – The Committee had noted in its *Scrutiny Report 14* that the amendments made by clauses 70 to 72 of the Bill appeared to have already been made by the *Statute Law Amendment Act 2025*. The Attorney-General thanked the Committee for pointing this out and advised that she had instructed Parliamentary Counsel’s Office to “oppose” Clauses 70 to 72, which are included in the government amendments referred to above.

- 1.7 The Committee thanks the Attorney-General for her response and for providing the revised explanatory statement, noting that the response and revised statement have been received prior to the Bill being debated by the Assembly.

Family, Personal and Sexual Violence Amendment Bill 2025

- 1.8 The Committee has received a letter from the Attorney-General dated 5 March 2026 in relation to comments made by the Committee in *Scrutiny Report 14* (January 2026) on amendments proposed by the Family, Personal and Sexual Violence Amendment Bill 2025 to the *Bail Act 1992*, *Crimes Act 1900*, *Crimes (Restorative Justice Act) 2004*, *Crimes (Sentencing) Act 2004*, *Evidence (Miscellaneous Provisions) Act 1991*, *Residential Tenancies Act 1997* and *Victims of Crime (Financial Assistance) Act 2016*.
- 1.9 The Attorney-General advised the Committee that the Justice and Community Safety Directorate is considering the Committee’s comments. The Attorney-General also noted that the Bill is currently the subject of a separate inquiry by the Standing Committee on Legal Affairs. Therefore, the Attorney-General has advised in her letter that she will provide a revised explanatory statement which incorporates responses to the Committee’s comments and to the separate inquiry recommendations at a later stage and prior to debate of the Bill.
- 1.10 The Committee thanks the Attorney-General for advising the Committee about incorporating a response with a response to the other inquiry.

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 DI2026-12 being the Building and Construction Industry Training Levy (Governing Board) Appointment 2026 (No 2) section 6 of the *Building and Construction Industry Training Levy Act 1999* and section 78 of the *Financial Management Act 1996* revokes DI2025-192 and appoints a specified person as a member of the Building and Construction Industry Training Fund Authority Governing Board for a period of three years.**
 - **Disallowable Instrument DI2026-13 being the Official Visitor (Corrections Management) Appointment 2026 (No 1) section 10(1)(b) of the *Official Visitor Act 2012* appoints a specified person as an official visitor for the purposes of the *Correction Management Act 2007*.**
 - **Disallowable Instrument DI2026-16 being the Cemeteries and Crematoria (Gungahlin Memorial Hall and Condolence Lounge Fees) Determination 2026 (No 1) section 128 of the *Cemeteries and Crematoria Act 2020* determines the fees for the Gungahlin Memorial Hall and Condolence Lounge for the period beginning 1 March 2026.**
 - **Disallowable Instrument DI2026-17 being the Remuneration Tribunal (Fees and Allowances of Members) Determination 2026 made under section 20 of the *Remuneration Tribunal Act 1995* revokes DI2025-14 and determines fees and allowances payable to members in accordance with the Act.**

Disallowable Instruments—Comment

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

Human Rights Issues

- **Disallowable Instrument DI2026-15 being the Major Events (2026 Winter Sports Season Events) Notice 2026 section 9 of the *Major Events Act 2014* applies the provisions of the *Major Events Act 2014* (the Act) to the 19 matches at GIO Stadium from 6 March 2026 to 21 August 2026 (the 2026 Winter Sports Seasons in the ACT).**
- 2.3 This instrument is made under section 9 of the *Major Events Act 2014*. It declares 19 matches to be played at GIO Stadium, between 6 March and 21 August 2026 to be “important sporting events”, for that Act.
- 2.4 Section 11 of the Major Events Act provides:

11 Application—pt 3

This part (other than section 24 (Offence—ban orders)) applies to—

- (a) a major event—for the major event declaration period; and
- (b) an important sporting event—for the important sporting event notice period.

2.5 As noted in the explanatory statement for the instrument, Part 3 of the Major Events Act contains powers and offences relating to crowd management, that are enlivened by the instrument. The explanatory statement for the instrument states:

Crowd management in Part 3 of the Act include offences in relation to the possession of prohibited items and interference with the event. Part 3 also provides crowd management powers including the power to search personal property, to conduct scanning searches and frisk searches.

2.6 The explanatory statement also states:

Terrorism and violent extremism continue to be threats at the national level, and there is an increased national focus on security arrangements for mass gatherings, including stadium sporting events. Protections such as these support a reduction and deterrent to that risk.

2.7 The Committee notes that the explanatory statement does not discuss human rights issues. The only rights-related discussion is as follows:

The application of crowd management powers does not affect the rights and duties of venue operators and property holders that apply under ACT or Commonwealth laws or the common law.

2.8 The Committee compares this explanatory statement to the explanatory statement for the Major Events (National Multicultural Festival 2026) Declaration 2026 (DI2026-3), made under section 6 of the Major Events Act, which the Committee considered for its previous report (*Scrutiny Report 16* of the 11th Assembly). The Committee notes (with approval) that the explanatory statement for that instrument contained detailed and helpful discussion of human rights issues. The Committee queries why similar analysis was not provided for this instrument.

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 expires.

Government response—No comment

2.9 The Committee received a response to the Committee's comment on the following subordinate legislation and has no further comment:

- Disallowable Instrument DI2025-308 being the Motor Accident Injuries (Quality of Life Benefit) Guidelines 2025.

2.10 The response can be viewed online.³

2.11 The Committee thanks the Minister for Finance for the response.

Chiaka Barry MLA

Chair

23 March 2026

³ https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees-11th-assembly/LA_Scrutiny/response-to-comments-on-subordinate-legislation.

Outstanding responses

Bills/Subordinate Legislation/National Laws

Report 14, dated 27 January 2026

Bill

- Family, Personal and Sexual Violence Amendment Bill 2025 (an interim response was received on 5 March 2026).

Report 15, dated 17 February 2026

Bill

- Firearms (Public Safety) Amendment Bill 2026.

Report 16, dated 10 March 2026

Bill

- Firearms (Firearm Prohibition Orders) Amendment Bill 2026.

Subordinate Legislation

- Subordinate Law SL2026-1 being the Legal Profession (Barristers) Rules 2026.

National Law

- Education and Care Services National Further Amendment Regulations 2025 (NSW), as adopted by the *Education and Care Services National Law (ACT) Act 2011*.