



Attorney-General
Minister for the Arts and Cultural Events
Minister for Building Quality Improvement
Minister for Business and Regulatory Services
Minister for Seniors and Veterans
Member for Ginninderra

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Mrs Jones

I write in relation to the comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) in its Scrutiny Report 29 published on 1 April 2019 about the *Justice and Community Safety Legislation Amendment Bill 2019* (the Bill). I thank the Committee for its comments on the Bill, and I offer the following response.

Displacement of section 47(6) of the Legislation Act 2001

The Bill will amend section 95(2) of the *Emergencies Act 2004* to require an occupier of premises who is directed to provide or install a fire appliance at the premises to maintain that appliance in accordance with the 'proper maintenance standard'. The proposed definition of 'proper maintenance standard' in Clause 10 of the Bill includes maintenance of fire appliances in accordance with the Australian Standards. Clause 10 of the Bill displaces section 47(6) of the *Legislation Act 2001* (Legislation Act). This means the Australian Standards do not have to be notified on the ACT Legislation Register. The Committee has requested an explanation as to why section 47(6) has been displaced.

I appreciate that the notification requirements under section 47(6) of the Legislation Act ensure that laws are transparent and that members of the public can comply with their obligations with certainty.

In this case, however, the Australian Standards are subject to copyright, as they are owned by a non-government organisation, Standards Australia. The notification requirement has been displaced to avoid breaching copyright or otherwise unduly diminishing the value of the intellectual property that is held in the document by Standards Australia. Copyright prevents the Standards from being notified or otherwise published on the ACT Legislation Register.

The Committee has also requested a response as to where the Standards may be accessed, and whether free public access could be provided. Given the specialised nature of the Standards, they

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are usually only accessed by fire systems maintainers or building occupiers as required in the course of their work. Such organisations are generally familiar with the content of the Standards and how to access them. Payment for access to the Standards to ensure that premises are safe from fire hazard may reasonably be regarded as an ordinary part of doing business. The relevant Standards are not primarily designed for application to residential premises and access from members of the public is rarely requested.

The ACT Government's conditions of use of the Standards is limited to use within the Government and does not extend to their sharing or distribution. Therefore, the ACT Government cannot give free public access to the Standards. The Emergency Services Agency is in regular dialogue with building occupiers and fire system maintainers to increase their awareness and understanding of their obligations under the Standards. The Emergency Services Agency are available to discuss and explain the Standards to any members of the public as requested.

I thank the Committee again for its scrutiny of, and comments on, the *Justice and Community Safety Legislation Amendment Bill 2019*. I trust this response addresses the Committee's comments on the Bill.

Yours sincerely

Gordon Ramsay MLA
Attorney-General