



Minister for Climate Change and Sustainability  
Minister for Corrections and Justice Health  
Minister for Justice, Consumer Affairs and Road Safety  
Minister for Mental Health  
Member for Kurrajong

Mrs Giulia Jones MLA

Chair

Standing Committee on Justice and Community Safety - Legislative Scrutiny Role

ACT Legislative Assembly

London Circuit

CANBERRA ACT 2601

Dear Mrs Jones

I write in relation to Scrutiny Report Number 48 of the Standing Committee on Justice and Community Safety (the Committee) concerning its comments in relation to the Mental Health Amendment Bill 2020.

The Scrutiny Committee has requested a response as to its comments on the displacement of the requirement for the adoption of laws or instruments of another jurisdiction to be notified on the Legislation Register. The Scrutiny Committee also seeks further information on why the potential for disallowance would prejudice the effective operation of the Act as amended.

It is necessary to displace the requirement for these types of documents to be notified on the Legislation Register to ensure that the ACT is able to effectively participate in multi-jurisdiction or national arrangements aimed at streamlining the experiences of mental health consumers as they move between jurisdictions. This displacement ensures that any such application or adoption remains consistent with the course document, avoiding the undesirable circumstance where the ACT is subject to a superseded version of a law or instrument, that renders the Guidelines moot.

The laws of the Commonwealth and all States and Territories are freely accessible online. Any Guideline that applies or adopts a law or instrument will clearly state where the law or instrument can be located, with the option to link directly from the Guideline to the website where the law or instrument is located.

I note that this provision is included for review after a period of operation of the Act, ensuring that this mechanism will be revisited and reviewed.

In relation to the Scrutiny Committee's comments regarding the use of notifiable instruments for Chief Psychiatrist Guidelines, the legislation seeks to strike an appropriate balance between the

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operational expertise of the Chief Psychiatrist and ensuring that there is appropriate transparency over the guidelines. Most jurisdictions allow the Chief Psychiatrist to make mandatory guidelines through policy alone, however, we have taken the step of making these guidelines notifiable instruments to ensure a higher standard of transparency and visibility.

Based on the feedback of the Scrutiny Committee, I will table a revised Explanatory Statement during the debate to better reflect the rationale for the use of notifiable instruments.

Thank you to the Committee for its thoughtful scrutiny of this Bill and this opportunity to engage on the issues outlined in the Report.

Yours sincerely

Shane Rattenbury MLA  
Minister for Mental Health