

**Mick Gentleman MLA**

Manager of Government Business  
Minister for Planning and Land Management  
Minister for Police and Emergency Services  
Minister for Corrections  
Minister for Industrial Relations and Workplace Safety

Member for Brindabella

Mr Peter Cain MLA

Our ref: CMTEDD2023/2019

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

ACT Legislative Assembly

Via email: [scrutiny@parliament.act.gov.au](mailto:scrutiny@parliament.act.gov.au)

Dear Mr Cain 

I am writing in response to comments of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in Scrutiny Report 12, released on 1 February 2022, in relation to the Financial Management Amendment Bill 2021 (No 2) (the Bill).

The Bill was introduced on 1 December 2021 and amends the *Financial Management Act 1996* (the Act) to insert a new Part 9A requiring public sector entities to comply with an insourcing framework determined by the Chief Minister. The insourcing framework would be used by public sector entities to evaluate if a service or works should be provided by the public sector or an external provider.

In relation to the matters the Committee has raised in Scrutiny Report 12, I provide the following.

**Justification for why the framework should be determined by a notifiable instrument**

The Committee has expressed its concern that there is limited justification provided in either the Bill or the accompanying explanatory statement for the framework to be determined by a notifiable instrument rather than a disallowable instrument. In so doing, the Committee noted the objection from the Clerk of the Legislative Assembly to the Bill on the grounds of a potential inconsistency between the Bill and section 8 of the *Legislative Assembly (Office of the Legislative Assembly) Act 2012* which provides that the Clerk and the Office's staff are not subject to direction by the Executive or any Minister in the exercise of their functions.



Further noting that similar provisions exist relating to the independence of the Auditor-General, Integrity Commission and Electoral Commission, the Committee has questioned why a disallowable instrument would not provide sufficient flexibility while ensuring scrutiny by the Committee and the Assembly.

Following the Committee's report, several amendments to the Bill have been drafted:

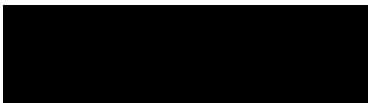
- Section 128(1): the term 'public sector' will be replaced with the term 'public sector entity'.
- Section 128(3): a determination will be changed from a notifiable instrument to a disallowable instrument.
- Section 129(2): the example "services or works provided by the entity known as the Office of the Commonwealth Ombudsman (see Ombudsman Act 1976 (Cwlth), s 4A)" will be inserted.
- Section 129A: this section will be removed.

These amendments have been made to respond to the Committee's concerns, standardise the terminology used throughout the Bill and illustrate the exclusion of Commonwealth entities from the Bill's scope.

I enclose a copy of the Bill, the amendments that will be moved at the debate and the insourcing framework documents for the Committee's reference.

I thank the Standing Committee for your consideration of the Bill and trust these amendments will address its concerns.

Yours sincerely



Mick Gentleman MLA  
Minister for Industrial Relations and Workplace Safety

8/6/2023

Encl: Financial Management Amendment Bill 2021 (No 2)  
Amendments to the Financial Management Amendment Bill 2021 (No 2)  
Insourcing Framework: Overview & Guidance  
Insourcing Framework: Template & Forms