



Gordon Ramsay MLA

Attorney-General
Minister for the Arts, Creative Industries and
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Mrs Giulia Jones
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear ^{Giulia} Mrs Jones

Thank you for considering the COVID-19 Emergency Response Legislation Amendment Bill 2020 and providing a preliminary response on 6 May 2020.

I offer the following response to the Committee's comments, including an explanation of the amendments to the Bill and the Explanatory Statement that have been made in response to those comments.

Changes to the Bill

Since the Bill was provided to the Committee for scrutiny, minor editorial amendments to the Bill have been made as well as three substantive amendments, one of which is in response to the Committee's preliminary report. These include amendments to:

- a. the *Payroll Tax Act 2011* to amend the offence at new section 2.19B (Notification offence—revocation of entitlement to JobKeeper payments) to prescribe the offence as a strict liability offence. This amendment is to give effect to the original intention of the amendment as reflected in the Draft Explanatory Statement and in response to a comment from the Scrutiny of Bills Committee;
- b. remove a note in the *Evidence (Miscellaneous Provisions) Act 1991* inserted by the *COVID-19 Emergency Response Act 2020*. This technical amendment was raised by PCO to ensure the incorrect note does not create confusion; and
- c. the *Working with Vulnerable People (Background Checking) Amendment Act 2019* to amend the commencement from 1 November 2020. The amendment has been changed to allow for

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commencement by written notice of the Minister with default commencement of 31 March 2021.

Changes to the Explanatory Statement

A number of changes to the Explanatory Statement have been made addressing issues raised by the Committee, in response to further amendments described above and to address other identified issues.

In response to the Committee's comments, the Explanatory Statement has been amended to:

- a. insert a section clearly outlining the expiry mechanisms for all provisions;
- b. clarify that the *Long Service Leave Act 1976* amendments are technical in nature and not substantive given they omit and remake amendments introduced in the *COVID-19 Emergency Response Act 2020*;
- c. clarify why the use of a notifiable instrument is appropriate under the:
 - i. *Associations Incorporation Act 1991*;
 - ii. *Corrections Management Act 2007*; and
 - iii. *Crimes (Sentence Administration) Act 2005*;
- d. include a justification for why a vulnerable person is recognised to be at least 60 years old;
- e. include a justification for the retrospective operation of the *Payroll Tax Act 2011* in relation to exempting JobKeeper payments from payroll taxes;
- f. justify the continued use of the existing strict liability in the *Retirement Villages Act 2012*; and
- g. clarify why it is appropriate for the minister under the *Taxation Administration Act 1999* to prescribe the information the Commissioner may require in relation to applications under the deferral and rebate schemes.


Other amendments have been made to the Explanatory Statement in response to the comments including changes to:

- a. clarify the amendment to the *Human Right Commission Act 2005* (HRC Act) to more clearly explain what rights are limited, and remove reference to 'freedom of movement' and the 'cultural rights of minorities';
- b. clarify that certain amendments generally 'may limit' human rights to clarify the nature of the engagement of rights;
- c. clarify the overall justification of the amendments to the HRC Act;
- d. in relation to COVID-19 leave permits under the *Corrections Management Act 2007*, clarify that an offender whose permit is cancelled will only be required to serve the remainder of that sentence; and
- e. in relation to the *Rates Act 2004*, clarify that the power for the Minister to determine an earlier due date for an instalment is to support a return to the normal schedule for when

instalments are normally due. This is required following the original change to give rate payers a one-month extension of time to pay their rate instalments.

I thank the Committee for considering this Bill and for their timely response.

Yours sincerely

A handwritten signature in black ink, appearing to read "Gordon Ramsay". The signature is fluid and cursive, with a large initial "G" and "R".

Gordon Ramsay MLA
Attorney-General

