

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

SCRUTINY REPORT 43

2 JUNE 2020

THE COMMITTEE

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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.

RESOLUTION OF APPOINTMENT

The Standing Committee on Justice and Community Safety when performing its legislative scrutiny role shall:

- (1) consider 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):
 - (a) is in accord with the general objects of the Act under which it is made;
 - (b) unduly trespasses on rights previously established by law;
 - (c) makes rights, liberties and/or obligations unduly dependent upon non reviewable decisions; or
 - (d) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly;
- (2) 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 Committee;
- (3) consider whether the clauses of bills (and amendments proposed by the Government to its own bills) introduced into the Assembly:
 - (a) unduly trespass on personal rights and liberties;
 - (b) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
 - (c) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
 - (d) inappropriately delegate legislative powers; or
 - (e) insufficiently subject the exercise of legislative power to parliamentary scrutiny;
- (4) report to the Legislative Assembly about human rights issues raised by bills presented to the Assembly pursuant to section 38 of the *Human Rights Act 2004*; and
- (5) report to the Assembly on these or any related matter and if the Assembly is not sitting when the Committee is ready to report on bills and subordinate legislation, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.

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BILLS

BILL—NO COMMENT

The Committee has examined the following bill and offers no comment on it:

BUILDING AND CONSTRUCTION LEGISLATION AMENDMENT BILL 2020

This Bill amends the *Building Act 2004* to establish the framework for a voluntary alternative dispute resolution scheme for disputes relating to building or development of residential buildings and related activity. The Bill provides for the appointment of a Residential Building Dispute Administrator, dispute resolution officers and technical building assessors as well as the confidentiality of information obtained in the dispute resolution process. The Bill will also make minor or technical amendments to the *Building (General) Regulation 2008* and *Construction Occupations (Licensing) Act 2004*.

BILL—COMMENT

The Committee has examined the following bill and offers these comments on it:

WORKING WITH VULNERABLE PEOPLE (BACKGROUND CHECKING) AMENDMENT BILL 2020

This Bill will amend the *Working with Vulnerable People (Background Checking) Act 2011* to provide for additional restrictions on registration of persons involved in a regulated activity involving children, and other amendments.

***Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?—
Committee terms of reference paragraph (3)(a)***

Report under section 38 of the *Human Rights Act 2004* (HRA)

RIGHT TO EQUALITY BEFORE THE LAW (SECTION 8 HRA)

RIGHT TO PROTECTION OF THE FAMILY AND CHILDREN (SECTION 11 HRA)

RIGHT TO PRIVACY AND REPUTATION (SECTION 12 HRA)

RIGHT TO A FAIR TRIAL (SECTION 21 HRA)

RIGHTS IN CRIMINAL PROCEEDINGS (SECTION 22 HRA)

RIGHT TO NOT BE TRIED OR PUNISHED MORE THAN ONCE (S 24)

The Bill will build on amendments to the Act introduced by the *Working with Vulnerable People (Background Checking) Amendment Act 2019*, which will commence on 1 November 2020. That amendment introduced additional restrictions for persons applying to provide support or services under the National Disability Insurance Scheme (NDIS). This Bill will further amend the Act to add to those restrictions and extend them to where a person is applying to engage in a regulated activity involving children. The Bill will specify two classes of disqualifying offences. Persons who have been convicted of a class A disqualifying offence will no longer be eligible to maintain or apply for registration to engage in an NDIS activity or a regulated activity involving children. Persons convicted of a class B disqualifying offence, or who have an outstanding charge for any disqualifying offence,

will only be registered to engage in such activities in exceptional circumstances. The Bill will also provide for exceptions relating to kinship carers, and includes transitional provisions relating to existing foster carers who will no longer be eligible for registration due to the amendments.

By drawing distinctions based on the category of offence committed or the nature of the relationship with a vulnerable person, the Bill will potentially limit the right to equality before the law protected by section 8 of the HRA, and possibly the right to not be tried or punished more than once protected by section 24 of the HRA. By limiting renewal of registration of existing foster parents who have committed a disqualifying offence where there are exceptional circumstances, the Bill may also limit the right to protection of the family and children provided by section 11 of the HRA.

The Bill will also extend the range of disqualifying offences to include those with particular relevance to care of children. It will require additional information to be provided in relation to those offences, and from a broader range of individuals by including those who are seeking registration to engage in regulated activities involving children. That information can be collected and shared by a range of Territory officials and agencies as well as agencies in other jurisdictions. In this way, the Bill will potentially limit the protection of privacy and reputation provided by section 12 of the HRA.

The Bill extends the ability of the Commissioner to prevent a person engaging in regulated activities where there have been convictions or charges relating to disqualifying offences. The Bill will also provide for the best interests of vulnerable people to be a paramount consideration in carrying out any functions under the Act. A person who is not eligible to apply for registration due to having been convicted of a class A disqualifying offence is not able to appeal or challenge their ineligibility. The Bill will therefore limit the rights to a fair trial protected by section 21 of the HRA. The Bill will also allow a person to be denied registration on the basis, in the absence of exceptional circumstances, that they have been charged with, but not convicted of, a disqualifying offence. The Bill will therefore potentially limit the right to the presumption of innocence protected by section 22 of the HRA.

The explanatory statement accompanying the Bill recognises these potential limitations of the rights protected by the HRA and sets out why they should be considered reasonable using the framework set out in section 28 of the HRA. The Committee refers that statement to the Assembly. The Committee notes, in particular, the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) that persons with a demonstrable history of undertaking harmful behaviours will continue to present a high risk to children and vulnerable people.

The Committee notes that the explanatory statement relies, in justifying human rights limitations, on consistency of the Bill with National Standards for Working with Children Checks, recently developed in response to the Royal Commission's recommendations and endorsed by all states and territories.¹ The Committee recognises that national consistency relating to background checking is an important consideration, particularly in facilitating the monitoring and enforcement of the protections across jurisdictions. However, in the Committee's view the adoption of the standards must, as in this case, be justified by the alleviation of the demonstrable risk of harm to vulnerable persons.

The Committee draws this matter to the attention of the Assembly, but does not require a response from the Minister.

¹ See Australian Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse, Role of states and territories, available at <https://www.childabuseroyalcommissionresponse.gov.au/government-response/role-states-and-territories>.

RIGHT TO WORK (SECTION 27B HRA)

The Committee is concerned that the disqualification of persons from regulated activities involving children or in relation to an NDIS service, which includes various occupations or professions, may limit the right to work protected by section 27B of the HRA.

Section 27B of the HRA was introduced by the *Human Rights (Workers Rights) Amendment Act 2020*, which substantively commenced on the 14 May 2020, one week prior to this Bill being introduced in the Assembly. The section relevantly states:

- (1) Everyone has the right to work, including the right to choose their occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.
- ...
- (5) Everyone is entitled to enjoy these rights without discrimination.

The section includes as examples of discrimination: discrimination because of race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.

The explanatory statement accompanying the Human Rights (Workers Rights) Amendment Bill 2020 describes the right to work as reflecting Article 6 of the International Covenant on Economic, Social and Cultural Rights (“the ICESCR”).² The right to work is described as:

not, and should not be read as, a requirement for Government to provide employment opportunities to every person living in the Australian Capital Territory. It may, however, be read as an obligation on government to enforce laws banning forced labour and to ensure non-discrimination practices are enforced by employers within the scope of the Act.

Article 6 of the ICESCR does not expressly limit the right to work by reference to regulation of the practice of a trade, occupation or profession. That phrase was included in model amendments to the HRA proposed by the ACT Economic, Social and Cultural Rights Research Project in 2010.³ The draft explanatory statement to accompany that model law stated:

The right to work is not an unconditional right to employment and the practice of a trade, occupation or profession may be regulated by law. Broadly stated, the right includes access to a system of employment; protection against forced employment; and protection against unfair deprivation of work.

The United Nations Committee on Economic, Social and Cultural Rights, in its general comment on the right to work embodied in article 6 of the ICESCR, describes the accessibility element of the right as prohibiting:

² Available at <http://www.austlii.edu.au/au/other/dfat/treaties/1976/5.html>.

³ Available from http://regnet.anu.edu.au/research/research-projects/details/531/act-economic-social-and-cultural-rights-project#acton-tabs-link--qt-research_project_details_qtab-ui-tabs1.

any discrimination in access to and maintenance of employment on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, or civil, political, social or other status, which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality.⁴

The general comment refers to Article 2 of International Labour Organisation Convention concerning Discrimination in Respect of Employment and Occupation.⁵ That convention goes further in Article 1 by including in the definition of discrimination “such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation ...”. However, “[a]ny distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination”.

As noted in section 27B of the HRA, aspects of rights under that section are considered at international law to be subject to an obligation of progressive realisation. Article 2 of the ICESCR describes this as “achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” However, as the supplementary explanatory statement accompanying government amendments to the Bill states:

In international law, the obligation of progressive realisation is subject to a corresponding duty not to take unjustifiable retrogressive measures or backwards steps in respect of the level of attainment of economic, social and cultural rights. ... this form of limitation on economic social and cultural rights may be assessed under the reasonable and justifiable limitations criteria set out under section 28 of the HRA.

In the Committee’s view, therefore, the right to work as expressed in section 27B of the HRA extends to both being able to freely access employment in a person’s chosen occupation or profession, and not be subject to discrimination of any form in making that choice. While the way in which a trade, occupation or profession may be practiced is appropriately regulated by law without limiting the right to work, denying access to the trade, occupation or profession on the basis of a person’s criminal background may, depending on the inherent requirements of that trade, occupation or profession, constitute a limitation of the right. It is therefore subject to assessment under framework set out under section 28 of the HRA.

The Committee therefore requests that the Minister provide further information to the Committee on whether the Bill potentially limits the right to work protected by section 27B of the HRA and, if so, how that limitation is considered reasonable. Consideration should be given to amending the explanatory statement accompanying the Bill to include a justification for any limitation of the right to work using the framework set out in section 28 of the HRA. The Committee recognises that, in this context, a justification for the limit on the right to work may include many of the elements used in justifying the limitation on the right to equality before the law protected by section 8 of the HRA. However, in the view of the Committee the potential impact on the right to work should be recognised and a distinct justification provided.

The Committee draws this matter to the attention of the Assembly, and asks the Minister to respond.

⁴ Committee on Economic, Social and Cultural Rights, General Comment No. 18: The Right to Work (art 6), 35th sess, UN Doc E/C.12/GC/186 (February 2006) (‘General Comment No. 18’).

⁵ C111 – Discrimination (Employment and Occupation), 1958, adopted Geneva, 42nd ILC session, 25 Jun 1958, available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111.

SUBORDINATE LEGISLATION

DISALLOWABLE INSTRUMENTS—NO COMMENT

The Committee has examined the following disallowable instruments and offers no comment on them:

- **Disallowable Instrument DI2020-85 being the Legal Profession (Bar Council Fees) Determination 2020 (No 1) made under subsection 84(2) of the *Legal Profession Act 2006* revokes DI2015-180 and determines fees payable for applications for the grant or renewal of a barrister practising certificate.**
- **Disallowable Instrument DI2020-86 being the Utilities (Electricity Feed-in Code) Determination 2020 made under sections 59 and section 63 of the *Utilities Act 2000* and section 46 of the *Legislation Act 2001* revokes DI2015-256 and determines the Electricity Feed-in Code 2020.**
- **Disallowable Instrument DI2020-87 being the Utilities (NERL retailers—Application of Industry Codes) Determination 2020 made under sections 56A and 63 of the *Utilities Act 2000* revokes DI2020-171 and determines the industry codes that energy retailers, authorised under the National Energy Retail Law, must comply with.**
- **Disallowable Instrument DI2020-88 being the Medicines, Poisons and Therapeutic Goods (Vaccinations by Pharmacists) Direction 2020 (No 2) made under section 352 of the *Medicines, Poisons and Therapeutic Goods Regulation 2008* revokes DI2020-36 and provides that a pharmacist or intern pharmacist may administer vaccines to a person without prescription if they comply with the Pharmacist Vaccination Standards imposed by the Chief Health Officer.**
- **Disallowable Instrument DI2020-90 being the Commissioner for Sustainability and the Environment (State of the Environment Report—Reporting Period and Reporting Date) Determination 2020 made under subsection 19 of the *Commissioner for Sustainability and the Environment Act 1993* specifies the reporting period and reporting day for the next State of the Environment Report.**

DISALLOWABLE INSTRUMENTS—COMMENT

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

HUMAN RIGHTS ISSUES

- **Disallowable Instrument DI2020-57 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 1) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Acton Developments (ACT) Pty Ltd to be a parking authority for the area of that part of road reserve of Parkes Way and Marcus Clarke Street adjoining Block 3 of Section 24, City.**
- **Disallowable Instrument DI2020-58 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 2) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Magic Projects to be a parking authority for the area of Block 16 Section 45 in the division of Belconnen.**

- **Disallowable Instrument DI2020-59 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 3) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Sports Centres Australia Pty Ltd to be a parking authority for the area of Block 7 Section 3 in the division of Bruce.**
- **Disallowable Instrument DI2020-60 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 4) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Benjamin Nominees (ACT) Pty Ltd to be a parking authority for the area of Blocks 2, 3 and 4 Section 43 in the division of Belconnen.**
- **Disallowable Instrument DI2020-61 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 5) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Challenger Management Services Ltd to be a parking authority for the area of Blocks 2 and 7 Section 50 in the division of Belconnen.**
- **Disallowable Instrument DI2020-62 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 6) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Cavalry Health Care ACT to be a parking authority for the area of Block 1 Section 1 in the division of Bruce.**
- **Disallowable Instrument DI2020-63 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 7) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Westfield Shopping Centre Management Co (ACT) Pty Ltd to be a parking authority for the area of Block 2 Section 64 and Block 7 Section 17 in the division of Phillip.**
- **Disallowable Instrument DI2020-64 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 8) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Corval Partners Ltd as trustee for Corval 40 Cameron Avenue Trust to be a parking authority for the area of Block 12 Section 45 in the division of Belconnen.**
- **Disallowable Instrument DI2020-65 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 9) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Unit Plan 2272 to be a parking authority for the area of Block 19 Section 86 in the division of Belconnen.**
- **Disallowable Instrument DI2020-66 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 10) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Link Corporate Services Pty Ltd to be a parking authority for the area of Block 3 Section 45 in the division of Turner and Block 3 Section 34 in the division of Dickson.**
- **Disallowable Instrument DI2020-67 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 11) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Hindmarsh Development Australia Pty Ltd to be a parking authority for the area of Block 13 Section 81 in the division of Phillip.**
- **Disallowable Instrument DI2020-68 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 12) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares KDN Group Pty Ltd to be a parking authority for the area of Block 21 Section 17 in the division of Greenway.**

- **Disallowable Instrument DI2020-69 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 13) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares NDP Dickson Pty Ltd as trustee for Woolley Street Trust to be a parking authority for the area of Block 2 Section 32 in the division of Dickson.**
- **Disallowable Instrument DI2020-70 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 14) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Le Nguyen Family Trust to be a parking authority for the area of Block 2 Section 31 in the division of Dickson.**
- **Disallowable Instrument DI2020-71 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 15) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares the National Film and Sound Archive of Australia to be a parking authority for the area of Block 1 Section 21 in the division of Acton.**
- **Disallowable Instrument DI2020-72 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 16) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares NG Woden Pty Ltd to be a parking authority for the area of Block 17 Section 3 in the division of Phillip.**
- **Disallowable Instrument DI2020-73 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 17) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares the person from time to time occupying the position of Senior Director of the National Arboretum Canberra to be a parking authority for the area of Rural Block 73 in the division of Molonglo Valley.**
- **Disallowable Instrument DI2020-74 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 18) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Megaside Pty Ltd to be a parking authority for the area of Block 11 Section 44 in the division of Belconnen.**
- **Disallowable Instrument DI2020-75 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 19) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Coles Group Property Developments Ltd to be a parking authority for the area of Block 21 Section 30 in the division of Dickson.**
- **Disallowable Instrument DI2020-76 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 20) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Construction Control One Pty Ltd and Junstamp Pty Ltd to be parking authorities for the area of Block 22 Section 21 in the division of Braddon.**
- **Disallowable Instrument DI2020-77 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 21) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Units Plan 1703 to be a parking authority for the area of Block 24 Section 32 in the division of Dickson.**

- **Disallowable Instrument DI2020-78 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 22) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Canberra Airport Pty Ltd to be a parking authority for the area of Section 1 in the division of Canberra Airport.**
- **Disallowable Instrument DI2020-79 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 23) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Megaside Pty Ltd to be a parking authority for the area of Block 4 Section 226 in the division of Gungahlin.**
- **Disallowable Instrument DI2020-80 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 24) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Karamaree Pty Ltd to be a parking authority for the area of Block 76 Section 65 in the division of Belconnen.**
- **Disallowable Instrument DI2020-81 being the Road Transport (Safety and Traffic Management) Parking Authority Declaration 2020 (No 25) made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017* declares Canberra Health Services to be a parking authority for the areas of Block 4 and 10 Section 53, Block 9 Section 33, Block 1 Section 58 and Block 25 Section 31 in the division of Garran; Blocks 3 and 7 Section 1 in the division of Phillip; Block 14 Section 50 in the division of Belconnen; Block 8 Section 58 in the division of Gungahlin; Block 12 Section 67 in the division of Weston; Block 10 Section 3 in the division of Bruce; and Block 16 Section 49 in the division of Symonston.**
- **Disallowable Instrument DI2020-82 being the Road Transport (Safety and Traffic Management) Guidelines 2020 made under section 34 of the *Road Transport (Safety and Traffic Management) Regulation 2017* revokes the Road Transport (Safety and Traffic Management) Guidelines 2020 (DI2002-28).**

Each of the first 25 instruments mentioned above is made under section 33 of the *Road Transport (Safety and Traffic Management) Regulation 2017*, which allows the Road Transport Authority to declare that a stated person (which includes a body corporate) to be the “parking authority” for a stated area. The effect of being declared as the “parking authority” for an area means that a ticket parking scheme operating in a relevant area, can be enforced under the road transport legislation. Each of the 25 instruments mentioned above declares a particular person to be the “parking authority” for a particular area.

The explanatory statement for the first instrument mentioned above indicates that the entity mentioned in that instrument was the parking authority under existing arrangements that expire on 20 April 2020. The instrument declares the entity in question to be the parking authority for the area, from 1 May 2020, thereby continuing the previous arrangement.

The other 24 instruments mentioned above are in similar terms, dealing with 24 other stated areas. Their explanatory statements are also in similar terms.

The explanatory statement for the first instrument then states:

Declaring a person to be a parking authority does not impose appreciable costs on the community or part of the community. While the operation of a ticket parking schemes can involve fixing fees for parking vehicles in an area, this is a fee being charged by a private operator as part of a commercial arrangement. The declaration itself does not impose any costs; it simply enables the enforcement of a scheme as per the provisions of the *Road Transport (Safety and Traffic Management) Regulation 2017*.

No rights contained in the *Human Rights Act 2004* are impacted by this instrument.

The explanatory statements for the other 24 instruments made under section 33 of the Road Transport (Safety and Traffic Management) Regulation contain an equivalent statement.

The 26th (and final) instrument mentioned above is made under section 34 of the Road Transport (Safety and Traffic Management) Regulation, which requires the Road Transport Authority to establish “parking authority guidelines”, that must be complied with by parking authorities. The guidelines established by the instrument are as follows:

Parking Authority Guidelines

1. These Guidelines must be complied with when operating a ticket parking scheme. The guidelines must continue to be met to ensure parking conditions are enforceable.
2. All signs and road markings used by the parking authority must be consistent with the relevant Australian Standard and the Australian Road Rules.
3. The parking authority must advise the road transport authority (the Authority) in writing of the parking fees to be charged by the parking authority, and any changes to the fees.
4. The parking authority must clearly identify the parking area as a pay parking area, if the area is a pay parking area.
5. The fees must be clearly displayed at each ticket machine within the ticket parking area.
6. If enforcement of the ticket parking area is required, the parking authority must write to the enforcing agency for the Authority (Access Canberra Parking Operations or its successor) requesting enforcement by authorised persons.
7. Enforcement of Authority parking permits and mobility parking scheme authorities is to be consistent with practices in ACT Government car parks.
8. A plan showing the traffic control devices in the ticket parking area must be submitted to the Authority, and the Authority be advised of any changes to the ticket parking area.
9. The parking authority must notify the enforcing agency (Access Canberra Parking Operations or its successor) of any ticket machine malfunctions immediately so appropriate enforcement arrangements can be made.
10. An example of the parking ticket is to be submitted to the Authority to ensure compliance with sections 41 and 42 of the *Road Transport (Safety and Traffic Management) Regulation 2017*.
11. The parking authority must notify the Authority in writing if it wishes to cease operating a ticket parking scheme.

The explanatory statement for this instrument states:

There are no human rights implications arising from this instrument.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for these instruments.

This comment does not require a response from the Minister.

IS THIS A DISALLOWABLE INSTRUMENT?

Disallowable Instrument DI2020-83 being the Commissioner for Sustainability and the Environment Appointment 2020 (No 2) made under section 4 of the *Commissioner for Sustainability and the Environment Act 1993* appoints a specified person as Commissioner for Sustainability and the Environment.

This instrument, made under section 4 of the *Commissioner for Sustainability and the Environment Act 1993*, appoints a specified person as the Commissioner for Sustainability and the Environment. The appointment is made by disallowable instrument.

The Committee notes that section 227 of the *Legislation Act 2001* deals generally with the making of appointments to statutory positions, by Ministers. It provides:

227 Application—div 19.3.3

- (1) This division applies if a Minister has the power under an Act to appoint a person to a statutory position.
- (2) However, this division does not apply to an appointment of—
 - (a) a public servant to a statutory position (whether or not the Act under which the appointment is made requires that the appointee be a public servant); or
 - (b) a person to, or to act in, a statutory position for not longer than 6 months, unless the appointment is of the person to, or to act in, the position for a 2nd or subsequent consecutive period; or
 - (c) a person to a statutory position if the only function of the position is to advise the Minister.

In the light of paragraph 227(2)(a) of the *Legislation Act*, the Committee has consistently maintained that instruments of appointment should clearly state that the appointee is **not** a public servant, in order to make clear that, in fact, the appointment should be made by way of disallowable instrument. In its document titled *Subordinate legislation—Technical and stylistic standards—Tips/Traps*,⁶ the Committee stated:

Under paragraph 227(2)(a) of the *Legislation Act 2001*, an instrument of appointment is not disallowable if it appoints a public servant. As a result, it assists the Committee (and the Legislative Assembly), if the explanatory statement for an instrument of appointment contains a statement to the effect that “the person appointed is not a public servant”.

The Committee notes that the explanatory statement for the instrument mentioned above contains no such statement.

The Committee draws the attention of the Legislative Assembly to the instrument mentioned above, under principle (2) of the Committee’s terms of reference, on the basis that the explanatory statement for the instrument does not meet the technical or stylistic standards expected by the Committee.

⁶ https://www.parliament.act.gov.au/__data/assets/pdf_file/0007/434347/Subordinate-Legislation-Technical-and-Stylistic-Standards.pdf.

The Committee seeks the Minister's confirmation that the person appointed by the instrument mentioned above is not a public servant.

This comment requires a response from the Minister.

FEES DETERMINATION

Disallowable Instrument DI2020-84 being the Veterinary Practice (Fees) Determination 2020 (No 1) made under section 144 of the *Veterinary Practice Act 2018* determines fees payable for the purposes of the Act and revokes the Veterinary Practice (Fees) Determination 2019 (No 2).

This instrument determines fees payable under the *Veterinary Practice Act 2018* for the 2020-2021 financial year. The Committee has consistently required that the explanatory material for fees determinations indicate the reason for any fees increases. The Committee notes that the explanatory statement for this instrument states:

The fee payable for the 2020-2021 financial year is included at column 5. Fees have been maintained at 2019-20 levels due to the impact of COVID 19.

This comment does not require a response from the Minister.

HUMAN RIGHTS ISSUES

Disallowable Instrument DI2020-89 being the Public Place Names (Whitlam) Determination 2020 (No 1) made under section 3 of the *Public Place Names Act 1989* determines the names of 13 roads in the Division of Whitlam.

This instrument is made under section 3 of the *Public Place Names Act 1989*, which allows the Minister to determine the names of public places, in the ACT. It determines road names in the suburb of Whitlam.

The Committee notes that the explanatory statement for the instrument contains the following discussion of the human rights implications of the instrument:

Human Rights

Section 12 of the *Human Rights Act 2004* creates a right to privacy and reputation.

Conceivably, the naming of a place has the potential to infringe the right to privacy and reputation of a person after whom a place is named. In this case the process through which places are named ensures that this right is not infringed and that only appropriate information is included in a determination. This process includes the consultation described above.

Additionally, in relation to places named after people, only the names of deceased persons are determined.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.

This comment does not require a response from the Minister.

HUMAN RIGHTS ISSUES

Disallowable Instrument DI2020-92 being the Leases (Commercial and Retail) COVID-19 Emergency Response Declaration 2020 made under section 177 *Leases (Commercial and Retail) Act 2001* requires good faith negotiations between landlord and tenant, having regard to the overarching principles and leasing principles set out in the National Code introduced as a result of the pandemic, prior to a landlord terminating the lease or taking adverse action for a prescribed breach.

This instrument is made under section 177 of the *Leases (Commercial and Retail) Act 2001*. Section 177 provides (in part):

177 Declaration—COVID-19 emergency response

- (1) The Minister may make a declaration in relation to the following matters for the purpose of responding to the public health emergency caused by the COVID-19 pandemic:
 - (a) prohibiting the termination of a lease to which this Act applies by a lessor in stated circumstances;
 - (b) prohibiting the recovery of possession of premises under the lease by the lessor in stated circumstances;
 - (c) changing any period under the lease or this Act in which someone must or may do something;
 - (d) changing, limiting or preventing the exercise or enforcement of any other right of the lessor under the lease or this Act in stated circumstances;
 - (e) exempting a tenant or lessor, or class of tenant or lessor, from the operation of a provision of this Act, a lease to which this Act applies or any other agreement relating to the lease of the premises.

The explanatory statement for the instrument states:

On 7 April 2020 the Prime Minister announced that National Cabinet had agreed to a mandatory code of conduct for small to medium enterprises (SMEs) commercial leasing principles during COVID-19. The code applies to tenancies that are suffering financial stress or hardship as a result of the COVID-19 pandemic as defined by their eligibility for the Commonwealth Government's Job Keeper program, with an annual turnover of up to \$50 million.

The National Code is to be implemented by each State and Territory by way of legislation or regulation, as it sees appropriate.

The explanatory statement goes on to outline how the instrument implements the National Code, for the ACT, including the following:

- introducing a requirement for good faith negotiations between the landlord and tenant, having regard to the overarching principles and leasing principles set out in the National Code, prior to the landlord terminating the lease or taking adverse action for a prescribed breach;

- setting, as a basis for operation, the circumstance of a tenant being impacted financially by the COVID-19 pandemic and as a consequence, fails to meet certain obligations (including the payment of rent) under their lease agreement;
- providing for the concept of an “impacted tenant”, being a tenant who has qualified for the Commonwealth JobKeeper scheme and has a turnover of less than \$50 million for the 2018-19 financial year; and
- limiting the operation of the instrument to leases entered into before 7 April 2020.

The explanatory statement for the instrument goes on to discuss the human rights implications of the instrument:

HUMAN RIGHTS COMPATABILITY

The measures in the Declaration may engage and potentially limit the right to privacy in the *Human Rights Act 2004* (HRA). There may be circumstances where the tenant who is party to a commercial lease arrangement is an individual rather than a commercial entity. Where an individual is an impacted tenant within the definition in Clause 3 of the Declaration, a tenant may be required to provide sufficient and accurate information (which may include personal information) to their landlord to demonstrate a loss of income. Such information would include qualification under the Commonwealth JobKeeper scheme so as to ensure that the parties can engage in good faith negotiations around leasing arrangements including the possible reduction in rent based on the extent to which the tenant has suffered a loss of turnover. Exchanging sufficient and accurate information is one of the overarching principles set out in the National Code of Conduct for SME Commercial Leasing Principles.

The requirement in the Declaration that a lessor engages in good faith negotiations with an impacted tenant prior to the landlord being allowed to exercise their right to terminate the lease or taking adverse action for a prescribed breach has an important purpose. It ensures leases cannot be terminated without the parties having had the opportunity to discuss how they can help each other in the current climate. By mandating ‘in good faith’ negotiations in these circumstances, the Declaration is designed to ensure tenants have the best chance to make it through the COVID-19 period. Exchanging sufficient and accurate information is necessary because landlords may reasonably expect tenants to demonstrate that they are suffering financial hardship because of the economic impact of COVID-19 in the context of engaging in good faith negotiations. It also ensures that there can be a reasonably proportionate response by the landlord to the level of impact of the COVID-19 pandemic experienced by the tenant in their business capacity. The overarching principles represent expectations that lessors and tenants should meet but are not legal obligations. Individual tenants may decide not to share information if it is not necessary for the purposes of engaging in good faith negotiations.

Thus, there is no limitation of the right to privacy because there are no legal requirements for tenants to provide information, and tenants retain control as to what information is to be shared.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this instrument.

This comment does not require a response from the Minister.

COVID-19-RELATED INSTRUMENT

Disallowable Instrument DI2020-94 being the Motor Accident Injuries (COVID-19) Guidelines 2020 made under section 487 of the *Motor Accident Injuries Act 2019* makes Guidelines in light of the potential impacts of the COVID-19 pandemic.

This instrument is made under section 487 of the *Motor Accident Injuries Act 2019*, which allows the Motor Accident Injuries Commission to make guidelines about any matter required or permitted by that Act to be included in guidelines. The particular guidelines made by the instrument explicitly related to the COVID-19 pandemic.

The explanatory statement for the instrument states:

The guidelines have been developed to apply in light of the potential impacts of COVID-19 on business continuity and health-related services. The guidelines recognise potential changes to the availability, accessibility, and mode of delivery of health services for injured people, and also the impacts on an insurer's ability to manage some elements of defined benefit applications. For example, not being able to receive timely information about a person's treatment and recovery during the COVID-19 pandemic.

The guidelines deal with matters not already covered by the MAI guidelines and in some instances modify guidelines made for various purposes under the MAI Act. The modifications should be read in conjunction with the relevant MAI guideline.

This approach has been taken in place of remaking the guidelines, as most modifications affect very few paragraphs, it provides transparency of the temporary changes to apply during the COVID-19 pandemic and allows for ease of revocation once it is considered that the modifications are no longer required.

The explanatory statement goes on to discuss the specific effects of the guidelines:

Specifically, the COVID-19 guidelines make provision for:

- Medical and other assessments requiring physical attendance at an appointment to be requested by an insurer only if essential and, ideally, is conducted at a location that minimises travel for an injured person;
- A longer period, if required by the insurer because of disruption to their business, for a receipt notice to be given within 7 business days for an application for defined benefits (this is an additional 2 days);
- A full and satisfactory explanation for a late application to include circumstances where a person was restricted in attending an appointment to obtain a medical report for their injuries;
- Enabling an interim approval plan to be prepared by the insurer where there are delays obtaining information required to prepare a draft recovery plan. The interim approval plan will allow an injured person to proceed with treatment and care, knowing it has been approved;
- Extending the amount of time from 5 business days to 10 business days for a treating doctor and injured person to consider a draft recovery plan or revised plan;
- Informing insurers on the status of a worker stood down from employment for the purposes of working out income replacement benefits. This is relevant as the Act and Income Replacement Benefits guidelines contain provisions for when a worker is in paid work, and it is considered guidance is necessary for the circumstances of a worker stood [down];

- More flexibility in the provision of fitness for work certificates.

The Committee draws the attention of the Legislative Assembly to the effect of the instrument and the explanation provided for it.

This comment does not require a response from the Minister.

COVID-19-RELATED INSTRUMENT / DRAFTING ISSUE

Disallowable Instrument DI2020-116 being the Long Service Leave (Portable Schemes) COVID-19 Emergency Leave Determination 2020 (No 1) made under schedule 1, sections 1.6 and 1.8A; schedule 2, sections 2.6 and 2.8A; schedule 3, sections 3.7 and 3.9A; schedule 4, sections 4.7 and 4.9A of the *Long Service Leave (Portable Schemes) Act 2009* determines the eligibility criteria and amount of leave for workers to apply for early access to their portable long service leave.

This instrument is made under various provisions of the *Long Service Leave (Portable Schemes) Act 2009* that were inserted by the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The Committee notes that the instrument was notified on 20 May 2020 and tabled in the Legislative Assembly the following day, in accordance with the amendment made to the *COVID-19 Emergency Response Act 2020* by item [1.44] of Schedule 1 to the *COVID-19 Emergency Response Legislation Amendment Act 2020*. The amendment—new section 3A of the first-mentioned Act—truncates the six sitting days after notification within which a subordinate law or disallowable instrument must be tabled, under section 64 of the *Legislation Act 2001*, to one sitting day, if the subordinate law or disallowable instrument is made “under a power given under a COVID-19 measure”.

The explanatory statement for the instrument indicates that the amendments in question were “designed to assist workers whose employment has been negatively impacted by the COVID-19 outbreak.”

The explanatory statement for the instrument states:

In summary, the amendments would allow eligible workers:

- to access leave earlier than is currently allowed under the portable schemes legislation;
- who have exited a covered industry permanently to apply for a payment instead of leave without having to wait for 20 weeks to pass;
- who have exited a covered industry during the COVID-19 emergency before becoming entitled to portable long service leave, to access a payment instead of leave for their recognised service.

The explanatory statement goes on to state:

This instrument now determines the eligibility criteria and amount of leave for workers to apply for early access to their portable long service leave. Specifically, eligibility will be for workers who meet all the following criteria:

- 18 months or more recognised service in a covered industry in the ACT; and
- recognised service in the last 12 months; and

- suffering hardship because they are unable to work and unable to earn because of COVID-19.

In relation to whether a worker has suffered hardship because they are unable to work and unable to earn because of COVID-19, examples of where this would occur are if:

- the worker's employment has been terminated due to [COVID-19];
- the worker has been stood down without pay because of [COVID-19] and is not receiving any other form of remuneration associated with their employment;
- the worker is not ill with COVID-19 but is self-isolating because of possible past exposure to COVID-19;
- the worker is required to care for someone who is ill with COVID-19 or isolating because of potential past exposure to COVID-19; or
- the worker is ill with COVID-19 and is not able to access paid sick leave.

This instrument also determines the amount of leave that is able to be used under the COVID-19 early access to portable long service leave provisions in the Act. Eligible workers will be able to access up to two weeks leave, based on the application of the relevant long service leave formula to their period of covered service in the ACT.

Depending on the amount of portable long service leave that a worker has worked out in accordance with the long service leave formula they may not have a full two weeks of long service leave. In these cases, the operation of the requirement that long service leave be taken in blocks of two weeks or more (for example in schedule 1, section 1.7 (2) of the Act) would result in an unfair outcome to those workers who do not have a full two weeks of leave and potentially preclude them from taking the leave contrary to the intention of the amendments.

The explanatory statement then goes on to discuss potential statutory interpretation issues:

However, the rules of statutory interpretation under sections 138 and 139 of the *Legislation Act 2001* where the legislation appears to create an inconsistency state that an interpretation that best achieves its purpose is preferred.

In this case, the clear purpose and intent of the COVID-19 early access to portable long service leave provisions are to give temporary support to those workers whose employment has been negatively impacted by the COVID-19. The amendments to the Act gave broad powers for the Minister to set the eligibility criteria that would apply in these specific circumstances, including the amount of leave eligible workers would be able to access. Given this, and consistent with that purpose, workers who are eligible for the COVID-19 early access to portable long service leave would be able to take a period of leave that is less than two weeks.

It is not clear to the Committee what the paragraphs immediately above are intended to mean or, indeed, if the discussion is intended to refer to the application of this instrument or the interpretation of the Long Service Leave (Portable Schemes) Act, itself. In the Committee's experience, it is unusual for an explanatory statement to refer to—and, seemingly, rely upon—interpretation provisions such as sections 138 and 139 of the *Legislation Act 2001*, which deal with the issue of “working out the meaning” of legislation. While such provisions can be invaluable, in interpreting legislation that is ambiguous or obscure, obviously, it is preferable that the meaning (and intention) of legislation is clear, on the face of the legislation. That being so, reliance on

provisions such as sections 138 and 139 of the Legislation Act, *at the time that legislation is made*, seems like an admission that what is being presented to the Legislative Assembly is capable of being interpreted as involving ambiguity, etc. The Committee assumes that this is not what is intended, in this case.

The Committee seeks the Minister’s advice as to the intention and effect of referring to sections 138 and 139 of the *Legislation Act 2001*, in the explanatory statement for this instrument.

The Committee notes that the explanatory statement for the instrument concludes by stating:

This instrument will expire when the COVID-19 early access to portable long service leave provisions in the Act expire.

The Committee draws the attention of the Legislative Assembly to the effect of the instrument and the explanation provided for it (including the discussion of potential statutory interpretation issues).

The comments in relation to the reference to sections 138 and 139 of the *Legislation Act 2001*, in the explanatory statement for this instrument, require a response from the Minister.

SUBORDINATE LAWS—COMMENT

The Committee has examined the following subordinate laws and offers these comments on them:

HUMAN RIGHTS ISSUES

Subordinate Law SL2020-16 being the Government Agencies (Land Acquisition Reporting) Amendment Regulation 2020 (No 1) made under the *Government Agencies (Land Acquisition Reporting) Act 2018* removes the requirement for the publication of information about Government acquisitions of residential properties made as part of the delivery of the Loose Fill Asbestos Insulation Scheme under the Act.

This subordinate law amends the *Government Agencies (Land Acquisition Reporting) Regulation 2019*, to remove a requirement for the publication of information about Government acquisitions of residential properties, made as part of the delivery of the Loose Fill Asbestos Insulation Eradication Scheme, under the *Government Agencies (Land Acquisition Reporting) Act 2018*. The explanatory statement for the subordinate law states:

This will support the privacy of homeowners participating in the Scheme Affected Property Buyback Program and the Eligible Impacted Property Buyback Program.

The explanatory statement for the instrument goes on to discuss the human rights implications of the subordinate law:

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

Excluding the publication of information associated with land transactions undertaken as part of the Scheme Affected Property Buyback Program and the Eligible Impacted Property Buyback Program advances the right to privacy and reputation under section 12 of the *Human Rights Act 2004*.

Homeowners can be readily identified by neighbours and other community members based on the address of their home. The release of site details, payments and valuations within a land acquisition report can be readily attributed to individual participants. As such the publishing of payments impacts homeowner participant's privacy in relation to their personal finances.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.

This comment does not require a response from the Minister.

HUMAN RIGHTS ISSUES

Subordinate Law SL2020-17 being the Unit Titles (Management) Amendment Regulation 2020 (No 1) made under the *Unit Titles (Management) Act 2011* exempts owners corporations and executive committees from requirements under the Act which obligate members to be physically present at a meeting of the owners corporation or executive committee during a public health emergency declaration period.

This subordinate law amends the *Unit Titles (Management) Regulation 2011*, to exempt owners corporations, and the executive committees of owners corporations from provisions of the *Unit Titles (Management) Act 2011* that require physical presence at meetings. The explanatory statement for the instrument makes it clear that the amendments are made in the context of the COVID-19 pandemic and also that the relevant exemptions will only apply for the duration of the pandemic.

The explanatory statement goes on to discuss the human rights implications of the subordinate law:

This regulation is consistent with the *Human Rights Act 2004* and does not place any limitations on rights. This exemption has been created to help owners corporations reduce the risk of exposing unit owners and managing agents to the virus. The exemption only removes the requirement for holding face-to-face meetings on a temporary basis. Owners corporations and executive committees must still comply with all other requirements under the Act.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.

This comment does not require a response from the Minister.

HUMAN RIGHTS ISSUES

Subordinate Law SL2020-18 being the Working with Vulnerable People (Background Checking) Amendment Regulation 2020 (No 1) made under the *Working with Vulnerable People (Background Checking) Act 2011* exempts Australian Defence Force personnel and public employees of Commonwealth, state or territory entities from registration under the Working with Vulnerable People Scheme, while engaged in regulated activities on behalf of the Territory for the purposes of supporting the COVID-19 emergency.

This subordinate law amends the *Working with Vulnerable People (Background Checking) Regulation 2012*, to exempt Australian Defence Force personnel and employees of Commonwealth, State or Territory entities from registration under the Working with Vulnerable People Scheme (**WWVP scheme**), while engaged in activities regulated by the *Working with Vulnerable People (Background Checking) Act 2011*, on behalf of the ACT, for the purposes of supporting the COVID-19 emergency.

The explanatory statement for the subordinate law states:

ADF personnel and public employees are not ordinarily exempt from registration under the WWVP scheme. However, during the COVID-19 emergency, the ACT Government may request support be provided to the Territory. This means ADF personnel and other public employees may be required to directly interact with children and other vulnerable people in the ACT. An exemption from WWVP registration is required to assist their ability to engage in regulated activities in the ACT.

The explanatory statement notes that the amendments made by the subordinate law only have effect for 12 months, from commencement.

The explanatory statement goes on to discuss the human rights implications of the subordinate law:

Human rights implications

During the development of this Instrument, due regard was given to its effect in relation to the compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

The Regulation engages the right to liberty and security of person (section 18 of the HRA) in relation to vulnerable people accessing regulated activities regarding their vulnerability.

The Regulation engages this right because the Commissioner for Fair Trading (the Commissioner) will engage in a higher level of risk by exempting ADF personnel and public employees to provide the workforce capacity required to deliver an effective and urgent response to the public health emergency.

The Regulation does not limit this right because ADF personnel and public employees are subject to other regulatory obligations, including police checks and security clearances. Exempt individuals are also limited to engaging in regulated activities for the purposes of supporting the ACT Government's response to the COVID-19 public health emergency. In addition, these individuals are subject to all other reporting obligations.

The Commissioner maintains the power to revoke the exemption in relation to any person during the period of a public health emergency, where the individual is subsequently assessed as an unacceptable risk of harm to children and vulnerable people. This reduces the risk of potential harm to children and vulnerable people and protects the rights and dignity of vulnerable people by limiting their exposure to people who pose a risk to their safety, welfare and wellbeing.

The Committee draws the attention of the Legislative Assembly to the discussion of human rights issues in the explanatory statement for this subordinate law.

This comment does not require a response from the Minister.

RESPONSES

GOVERNMENT RESPONSES

The Committee has received responses from:

- The Chief Minister, dated 19 May 2020, in relation to further comments made in Scrutiny Report 41 concerning the Public Interest (Disclosure) Amendment Bill 2020.
- The Minister for Employment and Workplace Safety, dated 19 May 2020, in relation to comments made in Scrutiny Report 40 concerning the Labour Hire Licensing Bill 2020.

[These responses](#)⁷ can be viewed online.

The Committee wishes to thank the Chief Minister and the Minister for Employment and Workplace Safety for their helpful responses.

Giulia Jones MLA
Chair

2 June 2020

⁷ <https://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-justice-and-community-safety-legislative-scrutiny-role/responses-to-comments-on-bills>.

OUTSTANDING RESPONSES

BILLS/SUBORDINATE LEGISLATION

- **Report 27, dated 18 February 2019**
 - Electoral Amendment Bill 2018 (Government Response).
- **Report 28, dated 12 March 2019**
 - Electoral Amendment Bill 2018 (Private Member’s amendments).
- **Report 37, dated 19 November 2019**
 - Domestic Animals (Disqualified Keepers Register) Amendment Bill 2019 (PMB).
 - Planning and Development (Controlled Activities) Amendment Bill 2019 (Private Member’s amendments).
- **Report 38, dated 4 February 2020**
 - Electoral Legislation Amendment Bill 2019 (Private Member’s amendments).
- **Report 39, dated 17 February 2020**
 - Disallowable Instrument DI2019-286—Animal Welfare (Advisory Committee Member) Appointment 2019 (No 2).
 - Unit Titles Amendment Bill 2019 (Private Member’s amendments).
- **Report 40, dated 24 March 2020**
 - Confiscation of Criminal Assets (Unexplained Wealth) Amendment Bill 2020.
 - Residential Tenancies Amendment Bill 2020.
- **Report 41, dated 28 April 2020**
 - COVID-19 Emergency Response Bill 2020.
 - Electronic Conveyancing National Law (ACT) Bill 2020—Government response.
 - Land Titles (Electronic Conveyancing) Legislation Amendment Bill 2020—Government response.
 - Subordinate Law SL2020-5 Magistrates Court (Heritage Infringement Notices) Regulation 2020.
- **Report 42, dated 19 May 2020**
 - Crimes (Offences Against Vulnerable People) Amendment Bill 2020.
 - Disallowable Instrument DI2020-28 Road Transport (Public Passenger Services) Independent Taxi Service Operator—Service Standards 2020 (No 1).
 - Subordinate Law SL2020-12 Magistrates Court (Public Health (COVID-19) Infringement Notices) Regulation 2020.