

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

SCRUTINY REPORT 29

1 APRIL 2019

THE COMMITTEE

COMMITTEE MEMBERSHIP

Mrs Giulia Jones MLA (Chair)
Ms Bec Cody MLA (Deputy Chair)
Mr Michael Pettersson MLA

SECRETARIAT

Ms Julia Agostino (Secretary)
Mr Danton Leary (A/g Assistant Secretary)
Mr Stephen Argument (Legal Adviser—Subordinate Legislation)
Mr Daniel Stewart (Legal Adviser—Bills)

CONTACT INFORMATION

Telephone 02 6205 0173
Facsimile 02 6205 3109
Post GPO Box 1020, CANBERRA ACT 2601
Email scrutiny@parliament.act.gov.au
Website www.parliament.act.gov.au

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

BILLS—NO COMMENT

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

FINANCIAL MANAGEMENT AMENDMENT BILL 2019

This Bill will amend the *Financial Management Act 1996* to establish a capital works reserve and allow entities to request a capital works advance from the reserve for an approved capital works project where their capital works expenditure exceeds their capital budget appropriation. It will also amend the *Administrative Decisions (Judicial Review) Act 1989* to exclude the Treasurer from having to provide reasons for authorising either a capital works advance or return of an unused portion of a capital works advance.

BILLS—COMMENT

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

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2019

This Bill amends legislation relating to justice and community safety to make minor amendments to their operation.

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 PRIVACY AND REPUTATION (SECTION 12 HRA)

The Bill will amend the *Freedom of Information Act 2016* to extend the categories of information disclosure of which is taken to be contrary to the public interest, and therefore exempted from having to be disclosed under that Act, to include information protected under section 844 of the *Children and Young People Act 2008*. The exemption doesn't extend to a person's non-sensitive information being disclosed to that person, but will include sensitive information, as defined in section 845 of the Children and Young Person Act, about the person requesting the information.

Sensitive information under section 845 includes information in care and protection appraisals or reports, contravention reports, family group conference information and interstate care and protection information. This information includes highly personal information relating to the suspected abuse and neglect of a child or young person, as well as information which identifies or could be used to identify persons who provided confidential or otherwise protected information.

As the explanatory statement accompanying the Bill recognises, the protection of privacy and reputation can extend to the “right to take control of who knows, possesses or handles your personal information.” By restricting access to sensitive information relating to the person making the request, the Bill therefore limits this right as protected in section 12 of the HRA. The explanatory statement includes a justification for this limitation using the framework set out in section 28 of the HRA, and the Committee refers this analysis to the Assembly. In particular, the Committee notes the

need to withhold information due to the need to protect the health and safety of children and young persons and the identity of people making confidential disclosures which assist in providing that protection.

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

RIGHT TO RECOGNITION AND EQUALITY BEFORE THE LAW (SECTION 8 HRA)

Clauses 21 and 22 of the Bill will extend the exemption from participation in jury duty for full time emergency workers and teachers to include part-time workers. However, by not extending the exemption to casual or voluntary workers the Bill draws a distinction that might be considered to limit the right to equality before the law protected by section 8 of the HRA. The explanatory statement accompanying the Bill recognises this potential limit and provides a justification using the framework provided by section 28 of the HRA, including the potential impact on the services in question of an absence due to jury duty. The Committee refers that statement to the Assembly.

The Bill will also amend the *Victims of Crime Act 1994* to exclude public servants from being appointed by the Minister as a member of the Victims Advisory Board. The explanatory statement accompanying the Bill recognises that this might potentially affect the right to equality protected under section 8 of the HRA and provides a justification for that limit, noting in particular the role of public servants appointed by the director-general to the Board and the need for members of the Board to present a diversity of views. The Committee refers that statement to the Assembly.

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

Do any provisions of the Bill insufficiently subject the exercise of legislative power to parliamentary scrutiny – Committee terms of reference paragraph (3)(e)

DISPLACEMENT OF SECTION 47(6) OF THE LEGISLATION ACT 2001

The Bill will amend the requirement under the *Emergencies Act 2004* relating to the standard to which building occupiers are required to maintain fire appliances, which include fire alarms and extinguishers. A failure to maintain the fire appliance to the required standard will be an offence punishable by a maximum of 50 penalty units. Currently, it is an offence to fail to maintain a fire appliance to a reasonable standard. Under the Bill, occupiers will have to maintain fire appliances to a proper maintenance standard, which is defined in the Bill through reference to an Australian Standard and an Australian and New Zealand Standard (clause 10). The Bill will also displace any obligation under subsection 47(6) of the *Legislation Act 2001* to notify or otherwise publish the contents of these Standards in the ACT Register of Legislation.

As the Committee has commented previously, any displacement of section 47(6) should be accompanied by an explanation of the reasons why it is considered appropriate to displace any notification requirements under the Legislation Act, particularly in relation to instruments or standards which are to be the basis for offences. Information should also be provided on where a copy of the relevant standard can be accessed, and, where access is only available on payment of a fee, whether alternative arrangements for the public to access the standards will be provided.

Here the note inserted in the Bill after the displacement of subsection 47(6) includes reference to the standards being available for purchase on the current Standards Australia web site. The explanatory statement accompanying the Bill does not provide any justification for why section 47(6)

is being displaced, nor any information on where the standards may be accessed. The Committee therefore requests that a justification for the displacement of subsection 47(6) be provided and that consideration be given to whether free public access to the required standard can be provided.

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

MOTOR ACCIDENT INJURIES BILL 2019

This Bill replaces the at-fault compensation scheme operating under the *Road Transport (Third-Party Insurance) Act 2008* with a new motor vehicles accident injuries scheme.

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 RECOGNITION AND EQUALITY BEFORE THE LAW (SECTION 8 HRA)

The Bill will provide for defined benefits to be available where a person is injured in a motor vehicle accident. It will restrict the ability to seek common law damages from the person at fault in the accident, and places various caps on the categories of damages and amounts that may be claimed, including removing damages for gratuitous care. Common law actions are available where there is a significant degree of impairment or impact on the ability to carry out the person's occupation due to the injuries sustained in the accident, the person injured was a child, a person is in receipt of defined benefits to provide care and treatment for the injury for a sufficient period of time or the accident resulted in the death of the person injured in the accident.

The Bill will also provide for a range of limitations, exceptions and exclusions in relation to the receipt of defined benefits, including differential treatment of persons who have been charged with or committed various criminal offences which contributed to the accident, or were injured as result of an intentionally self-inflicted injury. Defined benefits are not available where the accident is attributable to an act of terrorism. Foreign nationals and diplomats are also treated differently under the scheme. Some payments under the scheme are not available to detainees or young detainees whilst they are in detention, and income replacement payments are affected by the person injured being old enough to receive an aged pension.

The explanatory statement accompanying the Bill recognises the impact of introducing eligibility criteria for access to common law damages actions and the potential for the various limitations, exceptions and exclusions for the receipt of defined benefits used in the Bill to limit the right to equality before the law as protected by section 8 of the HRA. That statement includes a detailed justification for these impacts using the framework set out in section 28 of the HRA. The Committee refers the Assembly to that statement.

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

RIGHT TO PRIVACY AND REPUTATION (SECTION 12 HRA)

The Bill includes provisions relating to the disclosure and collection of sensitive or other personal information which may impact on the protection against undue interference with privacy protected by section 12 of the HRA. When making an application for a defined benefit, a person will have to

disclose personal information, including health and financial details, and consent to the collection and use of personal information by insurers and others in assessing any application. Information relating to claims may be provided to the Motor Accident Insurance Commission (MAI Commission) and shared with other entities including licensed insurers, the nominal defendant, road transport authority, the ACT Civil and Administrative Tribunal (ACAT) or a person approved in writing by the MAI Commission. Information relating to complaints about the conduct of an application may also be disclosed to licensed insurers, and other information shared between licensed insurers, provided to the Lifetime Care and Support Commissioner, or obtained from lawyers and, in relation to some past offences, the courts. The MAI Commission also has to keep a register of applications for defined benefits and motor accident claims which can be disclosed to licensed insurers and persons approved by the MAI Commissioner.

The Bill also provides for authorised officers to access premises and to seize objects or things, although this generally allows access to residential premises only with consent or under the terms of a warrant.

The explanatory statement includes a discussion of the impact of the Bill on the protection against undue interference with privacy under section 12 of the HRA, and sets out the reasons why any interference can be considered reasonable, and hence lawful and non-arbitrary, using the general framework provided under section 28 of the HRA. The Committee refers the Assembly to that statement. In particular the Committee notes the offences relating to disclosure of protected information to be provided by the Bill and the general obligations under information privacy and health records legislation at both the Territory and Commonwealth level.

The Bill excludes damages for gratuitous care, or care provided either to or by the injured person on an unpaid basis. This will deny compensation otherwise available under common law. This may impact on a person's choice of carer, especially in relation to having family members provide care and assistance, and therefore potentially impact on the protection against interference with family and home also provided by section 12 of the HRA. The explanatory statement acknowledges this potential limitation and why it should be considered reasonable. The Committee refers the Assembly to that statement.

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

RIGHT TO THE PRESUMPTION OF INNOCENCE (SECTION 22 HRA)

Under the Bill, payments relating to the impact of an accident on the person's quality of life are not available where the accident was related to the commission of various driving offences. An application for these payments will be suspended while charges are pending. The explanatory statement recognises that, by preventing access to a benefit on the basis of unproven charges, the Bill may limit the right to the presumption of innocence protected under section 22 of the HRA.

The Bill also includes several strict liability offences, including non-return of a MAI Commission identity card, interference with things seized by authorised persons in enforcing the Bill, and not complying with a request from an authorised person to provide your name and address. The Bill also places a burden on a person accused to prove the availability of a defence. For example, under clause 462 it is a defence to the offence of not complying with a request or requirement to give information to the MAI Commission where it was not in the insurer's power to comply. Under clause 286, it is a defence to the offence of using an uninsured motor vehicle if the defendant believed on reasonable grounds that the vehicle was insured.

The use of strict liability or placing the burden on defendants to establish a defence may limit the right to the presumption of innocence protected by section 22 of the HRA. The explanatory statement accompanying the Bill recognises the potential limit and provides a justification using the framework set out in section 28 of the HRA, including the regulatory nature of the offences and the limited penalties applicable. The Committee refers the Assembly to that statement.

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

Do any provisions of the Bill inappropriately delegate legislative powers?—Committee terms of reference paragraph 3(d)

AVAILABILITY OF MERITS REVIEW

Part 2.10 of the Bill will provide for review of the decisions by insurers in the assessment of applications for defined benefits. Decisions can be reviewed initially by the insurer as a form of internal review, and then by ACAT as a form of external review. However, the decisions that can be reviewed are not listed in the Bill but are to be prescribed by regulation. The Committee is concerned that the availability of merits reviews of decisions relating to the assessment of defined benefits as well as other decisions made by insurers under the Act will depend on inclusion in regulations. The Committee asks for consideration to be given to expressly defining which decisions can be reviewed or otherwise limiting the discretion given in prescribing the availability of review of decisions.

The Committee also notes that, under proposed section 185, the MAI Commission may make guidelines providing for applications for and conduct of internal review. The Committee is concerned about the range of matters which have been left to MAI Guidelines, including the potential role of personal representatives in the review process and the human rights implications this may present. The Committee asks the Minister for further information on the likely content of these guidelines and a justification for why they have been left to the discretion of the MAI Commission.

The Committee draws this matter to the attention of the Assembly, and asks for a response from the Minister.

CREATION OR DEFINITION OF OFFENCES BY REGULATION

The Bill requires providers of motor accident insurance in the Territory to have a licence and provides for the MAI Commission to impose conditions on those licences, including conditions prescribed by regulation (Clause 374). Breach of a licence condition is an offence with a penalty of up to 100 penalty units (Clause 376), as well as being a ground for suspension and an occupational discipline order issued by ACAT.

The Committee is concerned that regulations are able to define a type of condition which, when imposed at the discretion of the Commission, may, if not complied with, lead to an offence being committed or other penalties imposed. The Committee asks for further information on the type of conditions that are contemplated as falling within the provision and a justification for the delegation of legislative power involved.

The Committee draws this matter to the attention of the Assembly, and asks for a response from the Minister.

The Committee is also concerned about the power in clause 489 to make regulations which create offences. The Committee recognises that any such offences can have a maximum penalty of only 20 penalty units, but seeks an explanation from the Minister for why a general power to create offences by regulation is needed.

The Committee draws this matter to the attention of the Assembly, and asks for a response from the Minister.

HENRY VIII CLAUSE

The Committee notes that clause 612 will provide for a “Henry VIII” clause which enables the making of regulations which have the effect of changing the provisions of the Bill once enacted. However, the Committee notes that the provision is limited to amendments to the transition provisions in the Bill, and an explanation is provided in the explanatory statement for its inclusion.

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

Do any provisions of the Bill insufficiently subject the exercise of legislative power to parliamentary scrutiny – Committee terms of reference paragraph (3)(e)

DISPLACEMENT OF SECTION 47(6) OF THE LEGISLATION ACT 2001

The Bill will provide for guidelines to be made by the MAI Commission relating to a wide range of matters, including in assessing applications for defined benefits, establishing recovery plans, payment of treatment and care benefits, and conducting internal reviews. Subclause 484(3) allows those guidelines to apply, adopt or incorporate an instrument as in force from time to time. Under subclause 484(4), any such instrument does not have to be notified under the *Legislation Act 2001* because subsection 47(6) of that Act is displaced. The Committee asks that a justification be provided for why section 47(6) of the Legislation Act should be displaced in all cases where an instrument is incorporated even where there may be no restriction on registration of that instrument, and whether provision can be made for access to instruments where there might be copyright or other restrictions on notification on the legislation register.

The Committee draws this matter to the attention of the Assembly, and asks for a response from the Minister.

Under Part 7.2 of the Bill, an insurance industry deed between the Territory, the nominal defendant and licensed insurers will be used to regulate the motor accident insurance business of licensed insurers and incidental matters. Breach of the deed is a ground for an insurer’s license to be suspended under clause 380. The Committee is concerned that there is no express provision for the deed to be a disallowable instrument. The explanatory statement (at page 76) refers to the ability of members of the public to have access to the deed as a disallowable instrument being provided for by regulation. However, the Committee asks that consideration be given to expressly providing in the Bill for the deed to be a disallowable instrument.

The Committee draws this matter to the attention of the Assembly, and asks for a response from the Minister.

SUBORDINATE LEGISLATION

DISALLOWABLE INSTRUMENTS—NO COMMENT

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

- **Disallowable Instrument DI2019-12 being the Civil Law (Wrongs) Professional Standards Council Appointment 2019 (No 1)** made under Schedule 4, sections 4.38 and 4.39 of the *Civil Law (Wrongs) Act 2002* appoints a specified person as chairperson of the Professional Standards Council.
- **Disallowable Instrument DI2019-13 being the Civil Law (Wrongs) Professional Standards Council Appointment 2019 (No 2)** made under Schedule 4, section 4.39 of the *Civil Law (Wrongs) Act 2002* appoints a specified person as deputy chairperson of the Professional Standards Council.
- **Disallowable Instrument DI2019-15 being the Construction Occupations (Licensing) (Qualifications) Declaration 2019** made under section 13 of the *Construction Occupations (Licensing) Regulation 2004* determines the qualifications necessary for an individual to be eligible to be licensed in the construction occupations and associated occupation classes of Building Assessor, Drainer, Electrician, Gasfitter, Gas Appliance Worker, Plumber, Plumbing Plan Certifier, and Works Assessor Licences.
- **Disallowable Instrument DI2019-16 being the Construction Occupations (Licensing) (Fees) Determination 2019** made under section 127 of the *Construction Occupations (Licensing) Act 2004* revokes DI2018-160 and determines fees payable for the purposes of the Act.
- **Disallowable Instrument DI2019-17 being the Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 2)** made under section 13 of the *Road Transport (General) Act 1999* declares that certain pieces of the road transport legislation do not apply to a designated vehicle, or the driver or a designated vehicle, while participating in a special stage of the Rallye des Femmes.
- **Disallowable Instrument DI2019-18 being the Independent Competition and Regulatory Commission (Investigation into motor vehicle fuel prices in the ACT) Terms of Reference Determination 2019** made under sections 15 and 16 of the *Independent Competition and Regulatory Commission Act 1997* refers an investigation into motor vehicle petrol prices in the ACT to the Independent Competition and Regulatory Commission.
- **Disallowable Instrument DI2019-19 being the Road Transport (General) Application of Road Transport Legislation (Manuka Oval) Declaration 2019 (No 1)** made under section 12 of the *Road Transport (General) Act 1999* disapplies section 205 of the *Road Transport (Road Rules) Regulation* to support parking arrangements for events at Manuka Oval.
- **Disallowable Instrument DI2019-20 being the Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 3)** made under section 12 of the *Road Transport (General) Act 1999* declares that certain parts of the road transport legislation do not apply to a designated vehicle, or the driver or a designated vehicle, while participating in a special stage of the Light Car Club of Canberra Blue Range Rallysprint.
- **Disallowable Instrument DI2019-21 being the Gaming Machine (Determination of Surrender Obligations) Guidelines 2019** made under section 10K of the *Gaming Machine Act 2004*

provides that the Minister may make and apply any guidelines for the determination of surrender obligations under section 10J for the purposes of the Act.

- **Disallowable Instrument DI2019-22 being the Road Transport (General) Application of Road Transport Legislation Declaration 2019 (No 4) made under section 12 of the Road Transport (General) Act 1999** declares that certain parts of the road transport legislation do not apply to a designated vehicle, or the driver or a designated vehicle, while participating in a special stage of the Light Car Club of Canberra Blue Range Rallysprint.
- **Disallowable Instrument DI2019-23 being the Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2019 (No 2) made under s21(1) of the Race and Sports Bookmaking Act 2001** approves sports bookmaking operations at the Main Public Hospitality Area at Thoroughbred Park during the Black Opal Race Meeting.

DISALLOWABLE INSTRUMENTS—COMMENT

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

DOES THIS INSTRUMENT INVOLVE A SUBDELEGATION OF LEGISLATIVE POWER?

- **Disallowable Instrument DI2019-14 being the Construction Occupations (Licensing) (Qualifications—Builder and Building Surveyor Licences) Declaration 2019** made under section 13 of the *Construction Occupations (Licensing) Regulation 2004* revokes DI2017-282 and determines the qualifications for an individual to be eligible to be licensed in the construction occupations and associated occupation classes of builder and building surveyor.

This instrument is made under regulation 13 of the *Construction Occupations (Licensing) Regulation 2004*, which allows the Minister to determine (for sections 18 and 24A of the *Construction Occupations (Licensing) Act 2004*) the qualifications and financial requirements that are necessary for an entity to be eligible to be licensed in a construction occupation or occupation class. Various of the “methods” set out in Schedule 1 of the instrument contain a paragraph (d), that requires a person to hold ...

... a *tertiary qualification in building* that the Australian Qualifications Framework Advisory Board has determined is a bachelor degree, graduate certificate, graduate diploma, masters degree or doctoral degree in the Australian Qualifications Framework System ...

The Committee notes that the effect of these sorts of provisions is, arguably, to “subdelegate” the power to be exercised through the instrument – ie the power to determine the qualifications that are required – to the Australian Qualifications Framework Advisory Board. That is, rather than the Minister determining the tertiary qualifications that are required, it is the Australian Qualifications Framework Advisory Board that, in effect, is determining the qualifications required.

There is a fundamental legal principle that a person to whom the power to do a legislative act is delegated cannot (without express authority) then subdelegate the performance of the act. This is referred to as the rule against subdelegation – *delegatus non potest delegare* (see, generally, Pearce, DC and Argument, S, *Delegated Legislation in Australia* [5th edition], chapter 23). In the present case, the Minister has (through regulation 13) been delegated the power to determine qualifications. Arguably, various provisions in the instrument *subdelegate* this power, to the Australian Qualifications Framework Advisory Board. If that is the case then there would appear to be a breach of the rule against subdelegation.

The Committee seeks the Minister's views on this issue.

This comment requires a response from the Minister.

SUBORDINATE LAWS—NO COMMENT

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

- **Subordinate Law SL2019-5 being the Agents Amendment Regulation 2019 (No 1) made under the Agents Act 2003 amends the Agents Regulation to provide that the Act does not apply to YWCA Canberra or a person employed by YWCA Canberra, who provides a real estate licence.**

SUBORDINATE LAWS—COMMENT

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

STRICT LIABILITY OFFENCES / HUMAN RIGHTS ISSUES – POSITIVE COMMENT

- **Subordinate Law SL2019-3 being the Work Health and Safety Amendment Regulation 2019 (No 1), including a regulatory impact statement, made under the Work Health and Safety Act 2011 amends the Work Health and Safety Regulation to mandate the Working Safely with Asbestos Containing Materials course for declared occupations.**

This subordinate law amends the *Work Health and Safety Regulation 2011* to mandate the Working Safely with Asbestos Containing Materials course for declared occupations. The effect is to require relevant employers to provide training in relation to asbestos to employees working with asbestos. The subordinate law contains three new strict liability offences, carrying penalties of up to \$6,000 for individuals and \$30,000 for bodies corporate, for failing to comply with these obligations. The Committee notes with approval that both the explanatory statement and the regulatory impact statement for the subordinate law contain a detailed discussion of the issues arising from strict liability offences (including from the perspective of the *Human Rights Act 2004*), in line with the Committee's views, expressed in *Subordinate legislation—Technical and stylistic standards—Tips/Traps.¹*

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

This comment does not require a response from the Minister.

HUMAN RIGHTS ISSUES

- **Subordinate Law SL2019-4 being the Construction Occupations (Licensing) Amendment Regulation 2019 (No 1) made under the Construction Occupations (Licensing) Act 2004 amends the Construction Occupations (Licensing) Amendment Regulation 2004.**

This subordinate law makes amendments to the *Construction Occupations (Licensing) Amendment Regulation 2004*, in relation to the licensing of builders in the ACT. The amendments relate to eligibility for licences, skills assessments and licence renewals.

¹ https://www.parliament.act.gov.au/__data/assets/pdf_file/0007/434347/Subordinate-Legislation-Technical-and-Stylistic-Standards.pdf.

The Committee notes that the explanatory statement for the subordinate law contains a detailed discussion of human rights issues arising from the amendments, for the purposes of the *Human Rights Act 2004*.

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

This comment does not require a response from the Minister.

REGULATORY IMPACT STATEMENTS—NO COMMENT

The Committee has examined the following a regulatory impact statement for the following subordinate law and has no comments on it:

- **Subordinate Law SL2019-3 being the Work Health and Safety Amendment Regulation 2019 (No 1), including a regulatory impact statement, made under the Work Health and Safety Act 2011 amends the Work Health and Safety Regulation to mandate the Working Safely with Asbestos Containing Materials course for declared occupations.**

RESPONSES

GOVERNMENT RESPONSES

The Committee has received responses from:

- The Treasurer, dated 18 March 2019, in relation to comments made in Scrutiny Report 28 concerning the Revenue Legislation Amendment Bill 2019.

These responses² can be viewed online.

- The Minister for Health and Wellbeing, dated 16 March 2019, in relation to comments made in Scrutiny Report 26 concerning National Regulation:
 - Health Practitioner Regulation National Law—Health Practitioner Regulation National Law Regulation 2018 (No 166/2018).
- The Minister for City Services, dated 28 March 2019, in relation to comments made in Scrutiny Report 27 concerning Subordinate Law SL2018-28—Veterinary Practice Regulation 2018.

These responses³ can be viewed online.

² <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>.

³ <https://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-justice-and-community-safety-legislative-scrutiny-role/response-to-comments-on-subordinate-legislation>.

PRIVATE MEMBER'S RESPONSES

The Committee has received a response from:

- Mr Alistair Coe MLA, dated 29 March 2019, in relation to comments made in Scrutiny Report 19 concerning the Anti-corruption and Integrity Commission Bill 2018.

Giulia Jones MLA
Chair

1 April 2019

OUTSTANDING RESPONSES

BILLS/SUBORDINATE LEGISLATION

- **Report 7, dated 18 July 2017**
 - Crimes (Intimate Image Abuse) Amendment Bill 2017 (PMB).
- **Report 8, dated 8 August 2017**
 - Crimes (Invasion of Privacy) Amendment Bill 2017 (PMB).
- **Report 12, dated 21 November 2017**
 - Crimes (Criminal Organisation Control) Bill 2017 (PMB).
- **Report 17, dated 4 May 2018**
 - Crimes (Consent) Amendment Bill 2018 (PMB).
- **Report 27, dated 18 February 2019**
 - Electoral Amendment Bill 2018 (Government Response)
- **Report 28, dated 12 March 2019**
 - Crimes (Anti-Consorting) Amendment Bill 2019 (PMB)
 - Electoral Amendment Bill 2018 (Private Members' amendments)