

**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY



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

Mr Andrew Barr MLA  
Chief Minister  
Legislative Assembly for the ACT  
CANBERRA ACT 2601

Dear Chief Minister

**ACCESS TO AUSTRALIAN STANDARDS ADOPTED IN LEGISLATION**

I refer to my letter to you dated 27 April 2017, in which I raised with you the Committee's ongoing concerns about the access to Australian Standards (AS) and Australian Standards/New Zealand Standards (AS/NZS) relied on by ACT legislation. I note that, in raising the issue, I referred to the 2016 report of the Joint Standing Committee on Delegated Legislation of the Western Australian Parliament (WA Committee), on *Access to Australian Standards adopted in delegated legislation*, noting that recommendations 1, 2 and 12 of the report raised the possibility of the Western Australian government taking up various issues, through the Industry and Skills Council of the Council of Australian Governments. I asked you whether the ACT Government might do likewise.

I note that you responded to the Committee, in a letter dated 30 May 2017. In the letter, you drew the Committee's attention to action (then) currently being undertaken in two respects, namely:

- ongoing discussions about community access to Australian Standards were being held between State and Territory libraries and the (then) standards license holder, SAI Global (which the Chief Minister did not think it appropriate for him to engage in); and
- consideration of the matter by the COAG Industry Skills Council, in the light of the WA Committee's report, which allowed the issue to be considered at a Ministerial level, across jurisdictions.

I note that you advised that you would keep the Committee apprised of developments, as they occur. I note that the Committee has heard nothing further from you, on these issues.

Given its ongoing concerns, the Committee resolved to pursue another line of inquiry, with the Commonwealth Minister Industry, Science and Technology, the Hon Karen Andrews MP (Minister Andrews), on the basis that the Committee was aware that various issues connected to the access to standards issue were currently being considered, within Minister Andrews' portfolio, including as a result of Minister Andrews' role in relation to the work of the Industry and Skills Council Standards Accessibility Working Group (Working Group) of COAG, which had been working on issues relevant to access to standards. The Committee wrote to Minister Andrews, on 2 December 2019, seeking her assistance in relation to:

- the progress of the work of the Working Group and a time-line for the conclusion of that work; and
- work undertaken in relation to the distribution and licensing policy framework for AS and AS/NZS, operated by Standards Australia, which develops such standards.

Minister Andrews responded to the Committee, in a letter dated 31 March 2020. In the letter, Minister Andrews provided important information about the work of the Working Group of COAG, including about developments since November 2019.

Minister Andrews referred the Committee to Standards Australia's announcement, on 7 February 2019, that it was "moving beyond the exclusive distribution arrangements that it has had since 2013" and that a new service provider—Techstreet—had been announced. Minister Andrews also advised that Standards Australia has also recently announced a new "Distribution and Licensing Policy Framework" which, Minister Andrews advised, would see "improvements to the price relevance and reach of Australian Standards". Minister Andrews advised that these improvements would come "over time".

In relation to the issue of the suspension of access to Australian Standards, free of charge, through National, State and Territory libraries, Minister Andrews advised that Standards Australia was working towards restoring this access, to non-commercial users. Minister Andrews went on to advise that "[i]n the meantime, Standards Australia will consider providing standards to users where there is a legitimate non-commercial need on an individual basis".

Minister Andrews advised the Committee:

It remains Government policy that the relevant regulatory authority should consider funding access to standards where referenced in legislation. This should be done on a case-by-case basis, and is often considered through regulatory impact assessment processes. The new distribution arrangements implemented by Standards Australia should also provide greater opportunities to make these standards more accessible to a range of stakeholders.

The Committee was grateful for the important information provided by Minister Andrews, which provided a significant insight into the work that was going on, in relation to access to standards. However, given the Committee's ongoing concern about the fact that the relevant issues ought to be addressed with some urgency, the Committee was interested in further information about the processes in place, and the timelines envisaged, for resolving issues mentioned in Minister Andrews' letter. As a result, the Committee wrote a further letter to Minister Andrews, dated 4 June 2020. In that letter, the Committee asked Minister Andrews for further advice about various issues, including:

- what sort of process was in place to implement the envisaged "improvements to the price relevance and reach of Australian Standards", and what sort of timetable is envisaged, for the improvements to be implemented;
- what sort of process was in place, to restore access to Australian Standards, free of charge, through National, State and Territory libraries, and what sort of timetable is envisaged for resolution of the issue;
- what sort of process was in place for resolution of the issue of providing standards to users where there is a legitimate non-commercial need on an individual basis, and what sort of timetable is envisaged for resolution of the issue;

- what consideration had been given to providing access to relevant standards, free of charge, to potential users who might have a commercial interest in the relevant information but not a great enough interest to make it financially viable to purchase the relevant standards; and
- what sort of process was in place, to implement the new distribution and access arrangements, to be implemented by Standards Australia, and what sort of timetable is envisaged for the new arrangements to be implemented.

In asking these further questions, the Committee noted that progress towards addressing issues involved in access to standards seemed to be frustratingly slow. The Committee advised Minister Andrews that it was for that reason that the Committee sought Minister Andrews' further advice as to the processes that have been put in place and the timetables that were anticipated, in relation to the various initiatives that Minister Andrews mentioned in her response.

Minister Andrews responded to these further queries, in a letter dated 1 July 2020. Again, Minister Andrews provided the Committee with further important information, including:

- advice that there are no Australian Government plans to negotiate with Standards Australia for free public access to all standards referenced in Commonwealth, State or Territory legislation;
- advice that the Government has partnered with Standards Australia to waive the fee for access to the bushfire construction standard, to support the recovery and rebuilding of communities after recent bushfires;
- advice that her office received a significant amount of correspondence about the cessation of access to Australian Standards through libraries, a majority of which was from "commercial users who had been inappropriately accessing Australian Standards through those channels over several years";
- expressing a view that "[i]t is appropriate that Standards Australia has taken measures to protect their intellectual property rights and that they continue to do so";
- advice that National and State Libraries Australia was close to an agreement to restore a level of on-site access to standards before the onset of COVID-19;
- advising that this was a matter between Standards Australia and its distributor and that she would not be intervening in those negotiations;
- advice that, in the absence of access through National and State libraries, Standards Australia has made an interim provision, under which it would consider providing access to standards for non-commercial users, where there is a need on an individual basis (and providing an e-mail address to which request can be addressed);
- noting that the Standards Australia Distribution and Licensing Policy Framework included a commitment, by Standards Australia, to make standards available for personal, domestic or household (non-commercial) use no later than December 2023; and
- advice that the proposed access mentioned immediately above "will likely occur though an online portal managed by Standards Australia where users would register their access for non-commercial use".

Minister Andrews also suggested to the Committee that, given its strong views in relation to the provision of free public access to standards, the Committee might reach out, directly, to Standards Australia, “to discuss possibilities for sponsored access to Australian Standards referenced in ACT legislation”. However, Minister Andrews did not directly address the Committee’s question as to what consideration had been given to providing access to relevant standards, free of charge, to potential users who might have a commercial interest in the relevant information but not a great enough interest to make it financially viable to purchase the relevant standards.

I note that the Committee has recently published material in relation to the above correspondence, including copies of all the relevant letters, on its website (see <https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/standing-committees-current-assembly/standing-committee-on-justice-and-community-safety-legislative-scrutiny-role>).

I write to you, now, both to draw your attention to the above discussion and information and also to seek your views as to whether, in fact, you, on behalf of the ACT jurisdiction, might reach out, directly, to Standards Australia, “to discuss possibilities for sponsored access to Australian Standards referenced in ACT legislation”.

The Committee would be grateful for your views.

Yours faithfully



Giulia Jones MLA  
Chair

11 August 2020