

Ms Chiaka Barry MLA
Chair
Standing Committee on Legal Affairs (Legislative Scrutiny Role)
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Our ref: FILE2026/4354

Dear Ms Barry *Chiaka*

Thank you for providing Scrutiny Report 16 (the Report) of 10 March 2026 and the Standing Committee on Legal Affairs (Legislative Scrutiny Role) (the Committee) comments on Education and Care Services National Further Amendment Regulations 2025 (NSW), adopted by the *Education and Care Services National Law (ACT) ACT 2011* (the Regulation). I thank the Committee for its consideration of the Regulation.

I note the Committee has provided the following feedback:

*2.39 The Committee notes that the application of the Human Rights Act 2004 is **not** excluded. This means that the effect of the new strict liability offences in relation to the right to be presumed innocent until proved guilty according to law, provided by subsection 22(1) of the Human Rights Act, ought to have been addressed (in the Committee's view).*

2.40 The Committee notes that the explanatory statement for this National Law recognises that there is a strict liability offence issue. However, the Committee considers that the explanatory statement does not address the issue in the way that the Committee has come to expect.

2.41 The Committee draws the attention of the Legislative Assembly to this National Law, under principle (9)(c)(ii) of the Committee's resolution of appointment, on the basis that it may trespass unduly on rights previously established by law, and also under principle (10)(d) of the Committee's resolution of appointment, on the basis that the explanatory statement for the instrument does not meet the technical or stylistic standards expected by the Committee.

In response to the Committee's comment at paragraph 2.39 to 2.41, I acknowledge that the new offences engage subsection 22(1) of the *Human Rights Act* and that the explanation of interaction between the Human Rights Act and strict liability offences did not meet the Committee's expectations. The explanatory statement is amended accordingly and attached for your consideration.

I apologise for this oversight and thank the Committee for drawing it to my attention.

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Minister for Education and Early Childhood

Minister for Homes, Homelessness and New Suburbs

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Yours sincerely

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