



Minister for Climate Change and Sustainability
Minister for Corrections and Justice Health
Minister for Justice, Consumer Affairs and Road Safety
Minister for Mental Health
Member for Kurrajong

Obj # 18/03399

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mrs Jones

I write in response to the *Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) Scrutiny Report 26*, which was released on 5 February 2019. Specifically, this letter addresses comments made by the Committee on the *Fuels Rationing Bill 2018*. The Committee commented on the use of a “Henry VIII clause”, as clause 103 of the Bill authorises transitional regulations which may modify the transitional provisions in the Bill.

Clause 103 contains two different regulation making powers. Clause 103(1) enables the making of a regulation to deal with any transitional matter that arises as a result of the enactment of the Bill. However, the scope of the regulation must be confined to the same sphere of operation as the amended Act, be strictly ancillary to the operation of the Act and not widen the Act’s purpose.

A regulation made under clause 103(2) may only modify part 10 of the Act, and only if the Executive is of the opinion that the part does not adequately or appropriately deal with a transitional issue. A provision of this kind is an important mechanism for achieving the proper objectives, managing the effective operation, and eliminating transitional flaws in the application of the Act in unforeseen circumstances by allowing for flexible and responsive (but limited) modification by regulation. The clause is not expressed, and does not intend, to authorise the making of a regulation limiting future enactments of the Legislative Assembly.

I thank the Committee for its comments on the Bill and I trust this information is of assistance.

Yours sincerely

Shane Rattenbury MLA
Minister for Climate Change and Sustainability

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