



Gordon Ramsay MLA

Attorney-General
Minister for the Arts and Cultural Events
Minister for Building Quality Improvement
Minister for Business and Regulatory Services
Minister for Seniors and Veterans
Member for Ginninderra

Obj: 20/42489

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
scrutiny@parliament.act.gov.au

Dear Mrs Jones

I write in relation to comments made by the Standing Committee on Justice and Community Safety (Legislation Scrutiny Role) ('the Committee') in its Scrutiny Report 45 in relation to Disallowable Instrument 2020-109 being the Electronic Conveyancing National Law (ACT) Participation Rules 2020 and Disallowable Instrument 2020-110 being the Electronic Conveyancing National Law (ACT) Operating Requirements 2020.

I thank the Committee for its detailed consideration of both instruments and confirm the Government's response to the Committee, in Attachment A.

If you would like to discuss the matter further, please contact my office.

Thank you for bringing this matter to my attention.

Yours sincerely

Gordon Ramsay MLA

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Attachment A

Disallowable Instrument DI2020-109 being the Electronic Conveyancing National Law (ACT) Participation Rules 2020 section 23 and 25 of the Electronic Conveyancing National Law (ACT) determines the ACT Participation Rules for Electronic Conveyancing.

Disallowable Instrument DI2020-110 being the Electronic Conveyancing National Law (ACT) Operating Requirements 2020 section 22 and 25 of the Electronic Conveyancing National Law (ACT) determines the ACT Operating Requirements for Electronic Conveyancing.

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

The Committee noted that:

The explanatory statements for each instrument do not address how the commencement requirements set out in paragraph 25(1)(b) of the Electronic Conveyancing National Law (ACT) was exempted under subsection 25(5). The Committee considers that the explanatory statements should have addressed why the instruments were “in effect” before the Electronic Conveyancing National Law (ACT) came into effect, especially given the complicated statutory requirements for commencement of such instruments.

Response:

The inclusion of the subsection 25(5) to the Electronic Conveyancing National Law (ACT) 2020 ensured that the disallowable instruments made for e-conveyancing prior to 1 June 2020 could come into effect the day after they were notified. This was explained in the Supplementary Explanatory Statement to the Electronic Conveyancing National Law (ACT) Bill 2020.

The reason that the disallowable instruments came into effect before 1 June 2020 was to allow for e-Conveyancing to be made available sooner in the ACT. The current situation is that the COVID-19 physical distancing requirements are impacting the ACT paper-based land titling system. Early commencement of the disallowable rules has reduced the risk of delayed implementation of e-conveyancing and may have prospectively deterred interested parties from putting in an application to operate in the ACT.

Members of the Assembly were supportive of both bills especially considering the COVID-19 environment and understood that the legislation needed to be implemented effectively and quickly. The associated rules adopt and apply the nationally agreed model rules for electronic lodgement network operators and subscribers to the Electronic Lodgement Network Operators, being lawyers and mortgagee banks.