Ms Elizabeth Lee MLA

Chair

Standing Committee on Justice and Community Safety (Scrutiny)

ACT Legislative Assembly

London Circuit

CANBERRA ACT 2601

Dear Ms Lee

I refer to the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) Report 21, in which the Committee examined and provided comments on disallowable instrument DI2018-223 being the *Working with Vulnerable People (Background Checking) Risk Assessment Guidelines (No1)* (the **Guideline**) made under section 27(1) of the *Working with Vulnerable People (Background Checking) Act* 2011 (the **Act**).

The Committee noted that the Guideline reference the *Australia/New Zealand Standards AS/NZS ISO: 31000:2009 Risk Management – Principles and Guidelines* (the **Standard**) in several places. The Committee commented that it appears that the Standards is “applied, adopted or incorporated” for the purposes of subsection 27(2) of the Act and that there is no indication that subsections 47(5) or (6) of the *Legislation Act 2001* (the **Legislation Act**) are dispelled, therefore the Standard should be notified.

I am advised that sections 47(5) and 47(6) will only be enlivened if the Standard was applied, adopted or incorporated by the Guideline. As the Standard has not been applied, adopted or incorporated, neither sections 27(2) of the Act or 47(5) or (6) of the Legislation Act apply in these circumstances. The Guideline does not require the application or compliance with any criteria set out in the Standard. The requirements of the Standard have not been endorsed by the Guideline, nor will they be applied by the Commissioner for Fair Trading in conducting a risk assessment.

Thank you for the opportunity to provide comments to the Committee.

Yours sincerely

Gordon Ramsay MLA

actchiefminister