



Legislation Review Committee

Correspondence received in response to the Legislation Review Committee
Digest No.10/57 - 25 February 2020



TABLE OF CONTENTS

<i>Crimes (Administration of Sentences) Amendment (Use of Force) Regulation 2019</i> - Letter from Hon Anthony Roberts, Minister for Counter Terrorism and Corrections - 18 March 2020	2
<i>Poisons and Therapeutic Goods Amendment (Cannabis Medicines) Regulation 2019</i> - Letter from the Hon Brad Hazzard, Minister for Health and Medical Research - 20 March 2020.....	3
<i>Work Health and Safety Amendment (Miscellaneous) Regulation 2019</i> - Letter from the Hon. Kevin Anderson MP, Minister for Innovation and Better Regulation - 6 April 2020	4



The Honourable Anthony Roberts MP
Minister for Counter Terrorism and Corrections

CESC20/00374
IM20/6490
Your ref: LAC20/007.01

Ms Felicity Wilson MP
Chair
Legislation Review Committee
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000



Dear Ms  Wilson

Thank you for your letter of 26 February 2020 outlining the comments of the Legislation Review Committee in relation to the *Crimes (Administration of Sentences) Amendment (Use of Force) Regulation 2019* and providing the opportunity to respond to the Committee's comments.

I acknowledge your comments in relation to the Amendment Regulation, which adds an additional circumstance in which force may be used on an inmate to allow treatment (including medication) to be given to an inmate in accordance with section 84 of the *Mental Health Act 2007*.

As you have pointed out, a number of safeguards exist in relation to the use of force in these circumstances. This includes the preconditions of necessity and proportionality outlined in clause 131(1)-(3) of the *Crimes (Administration of Sentences) Regulation 2014*. It is also a requirement that every use of force be reported (except where clause 133(4) applies) and reviewed.

The use of force to assist Justice Health & Forensic Mental Health Network medical personnel administer enforced medication can prevent serious harm to an inmate's health, and ensure the safety of staff and other inmates.

I trust this information is of assistance to the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'A. Roberts'.

Anthony Roberts MP
Minister for Counter Terrorism and Corrections

18 MAR 2020



The Hon. Brad Hazzard MP
Minister for Health and Medical Research

Ms Felicity Wilson MP
Chair
Legislation Review Committee
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000 .

Your ref LAC20/007.01
Our ref M20/1241


Dear Ms Wilson

Thank you for your letter about the review by the Legislation Review Committee of the Poisons and Therapeutic Goods Amendment (Cannabis Medicines) Regulation 2019 (the Regulation).

The committee highlighted the number of strict liability offences in the Regulation. The use of four strict liability offences in the Regulation is considered appropriate, to ensure integrity of the regulatory framework governing the circumstances in which unregistered drugs of addiction are prescribed and supplied to patients.

The Regulation seeks to ensure appropriate regulation of unregistered drugs of addiction. In particular, the Regulation requires medical practitioners to obtain an authority under the Poisons and Therapeutic Goods Regulation 2008 before supplying or prescribing certain specified unregistered drugs of addiction, for the purposes of a clinical trial. Strict liability offences are generally recognised as necessary in circumstances where there is public interest in ensuring that regulatory schemes are observed. It can be reasonably expected that a person was aware of their duties and obligations. The use of these offences is particularly relevant in the context of regimes governing public health.

The use of strict liability offences in this context is considered appropriate, particularly noting the repercussions on the health and safety of patients where these substances are used in clinical trials without authority, or are prescribed by persons who are not medical practitioners. The strict liability offence provisions will complement the existing framework, governing existing stand-alone criminal offences throughout the *Poisons and Therapeutic Act 1966* and Poisons and Therapeutic Goods Regulation 2008. This includes matters such as the unauthorised supply of particular types of drugs of addiction and inappropriate prescription/supply of these substances.

Thank you again for writing. If you would like more information, please contact Ms Anna Read, Senior Legal Officer, NSW Ministry of Health, at anna.read@health.nsw.gov.au or on 9424 5863.

Yours sincerely

A large, stylized handwritten signature in blue ink, likely belonging to Brad Hazzard.

The Hon. Brad Hazzard MP
Minister for Health and Medical Research

20 MAR 2020



The Honourable Kevin Anderson MP
Minister for Better Regulation and Innovation

Our reference: COR-00914-2020
Your reference: LAC20/007.01

Felicity Wilson MP
Chair
Legislation Review Committee
By email: legislation.review@parliament.nsw.gov.au

Dear Ms Wilson

Digest No.10/57 of the Legislation Review Committee

I refer to your correspondence regarding the Legislative Review Committee's views on the *Work Health and Safety Amendment (Miscellaneous) Regulation 2019* (the **Amendment Regulation**).

The Amendment Regulation was introduced to complement the reforms contained in the *Work Health and Safety Amendment (Review) Bill 2019* to streamline investigations and increase deterrence, as well as extend transitional arrangements for plant item registration, facilitate information sharing between agencies whose regulatory responsibilities intersect and rectify a minor drafting error.

I note the Committee's comments regarding the Amendment Regulation and that the Committee makes no further comment on the issues raised around confidentiality of information. I also note that the Committee has referred the matter of the introduction of two new penalty notices to Parliament for its consideration.

The two new penalty notices are designed to deter persons conducting a business or undertaking from failing to notify the regulator of a notifiable incident as required and for failing to display an inspector issued notice at or close to the affected location within the workplace. The amounts gazetted for these penalty notices are in line with the ratio of the maximum court ordered penalty for the associated offences, which is the same approached used for other penalty notices that appear in the *Work Health and Safety Regulation 2017*. Their size reflects the serious nature of the offences. I note that a person may seek a review of an inspector's decision to issue a penalty notice.

Thank you for bringing these matters to my attention. Should you have any further questions please contact Maggie Phang, A/Director Policy and Strategy on (02) 8276 8394.

Yours sincerely

A handwritten signature in black ink that reads 'Kevin Anderson'.

Kevin Anderson MP
Minister for Better Regulation and Innovation

Date: 06/04/20