



Legislation Review Committee

Correspondence received in response to the Legislation Review Committee
Digest No. 31 – 8 June 2021



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The Honourable Kevin Anderson MP
Minister for Better Regulation and Innovation

Our reference: COR-03708-2021
Your reference: LAC21/035.07

Mr Dave Layzell
Chair
Legislation Review Committee
Legislation.Review@parliament.nsw.gov.au

Dear Chair

Thank you for your correspondence about the *Legislation Review Digest No. 31/57*.

I have considered the Committee's comments in the Digest concerning the Better Regulation Legislation Amendment (Miscellaneous) Bill 2021 and the Building Legislation Amendment Bill 2021. The Department's response, as summarised below, is attached (**Tab A – Department Response to Digest No. 31/57**).

Better Regulation Legislation Amendment (Miscellaneous) Bill 2021

The Department notes the Committee's general preference for legislation to commence on a fixed date or on assent, to provide certainty for affected persons. However, specifying a commencement date may be unsuitable in circumstances where many stakeholders are involved and the implementation process of necessary administrative arrangements is complex. A flexible start date enables appropriate stakeholder consultation to be conducted and key implementation measures to be finalised prior to commencement.

The Department also notes the Committee's views on the proposed information sharing arrangement under the *Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010*. As with other laws within the portfolio containing similar information sharing arrangements, it is intended that the proposed amendment will complement existing national and state privacy and information laws including the *Privacy and Personal Information Protection Act 1998*. During implementation, the Department will consult with the Information and Privacy Commission NSW to ensure the new exchange of information power is exercised consistently with established legal principles regarding the use, disclosure and retention of personal information by public sector agencies.

As noted by the Committee, the Bill enables the Secretary to approve a longer waiting period for an application for an exit entitlement order under the *Retirement Villages Act 1999*. This amendment supports natural justice by allowing the Secretary to exercise discretion to consider any exceptional or unexpected circumstances affecting the parties involved in the sale or application process. This amendment is not intended to unduly impact the rights of former residents, but will instead, ensure appropriate measures are in place to uphold procedural fairness and consistency.

Building Legislation Amendment Bill 2021

The Department notes the Committee's views regarding the proposed powers of entry provisions in the *Gas and Electricity (Consumer Safety) Act 2017*. As noted by the Committee, the Bill limits the powers of entry for authorised officers of network operators and retailers to

the purposes of carrying out certain electricity works on the premises. The Committee also acknowledges that the Bill provides some safeguards on the use of the power of entry by requiring that it occur during daylight hours except where there is an emergency and by use of an existing opening in the fence, where possible. The Department notes, along with other safeguards included at section 55A(3), that the powers of entry and inspection conferred by the *Gas and Electricity (Consumer Safety) Act 2017* are not exercisable under section 47 without the permission of the occupier of the premises or that part of the premises or under the authority conferred by a search warrant.

The Department also notes the Committee's views on the proposed section 107(5) of the *Design and Building Practitioners Act 2020* in relation to the wide power of exemption. The Department notes the Committee's concerns and supported amendments to clarify the regulation making powers to ensure it aligns with the policy intent of the legislation. These changes will allow the Regulation to be used to ease new practitioners and classes of building into the new scheme to ensure that the reforms are able to deliver more trustworthy buildings designed and constructed by competent practitioners.

For a detailed summary of the Department's response, please refer to **Tab A**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Anderson', with a long horizontal flourish extending to the right.

Kevin Anderson MP
Minister for Better Regulation and Innovation

Date: 2 July 2021

**Legislation Review Committee (Digest No. 31/57)
Department Response**

Better Regulation Legislation Amendment (Miscellaneous) Bill 2021			
Trespasses on personal rights and liberties			
Issue	Legislation	LRC comments	Department response
Publication of legally sensitive information	<i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i>	<p>The Bill amends the <i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i> to enable a court order to be made requiring a person convicted of an offence under the Act or its regulations to publicise the offence. The person may also be required to publicise other matters, including if a prohibition order, building work rectification order or stop work order has been made in connection with the person. This may impact a person's right to protect legally sensitive information, especially information that may affect procedural fairness or create reputational damage.</p> <p>However, the Committee recognises the public interest justification for these changes, including that it is intended enhance industry standards and strengthen consumer protection in the building development sector and create a deterrent for offences under the Act. In these circumstances, the Committee makes no further comment.</p>	<p>The Department agrees with the Committee that there is a public interest justification in increasing transparency around the commission of offences or the issue of orders under the Act.</p> <p>As noted by the Committee, the proposed amendment will strengthen consumer protection and increase accountability in the building development sector. The amendment is proportional to any reputational or privacy risks that may arise and is necessary to deter non-compliance. The publication order is also at the discretion of the court to use in appropriate circumstances.</p>

Tab A – Department Response to Digest No. 31/57

Better Regulation Legislation Amendment (Miscellaneous) Bill 2021			
Privacy	<i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i>	<p>The Bill amends the <i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i> to enable the Secretary of the Department of Customer Service to enter into information sharing arrangements with particular agencies. The Bill also provides powers for an inspector to require the production of employee records and to take possession of records to be used as evidence. This may impact on an individual's privacy of their employee records and related information.</p> <p>The Committee acknowledges the intent of the amendments to enable inspectors to enforce compliance and are consistent with existing laws within the portfolio. However, the Committee notes that the Bill does not specify whether this information would constitute 'personal information' as defined under the <i>Privacy and Personal Information Protection Act 1998</i>. Under the Privacy Act, there are certain protections regarding the use, disclosure and retention of personal information by public sector agencies. In these circumstances, the Committee refers these provisions to the Parliament for its consideration.</p>	<p>The Department notes the Committee's views.</p> <p>The proposed amendments do not seek to override existing national and state privacy and information laws, including the <i>Privacy and Personal Information Protection Act 1998</i>.</p> <p>As observed by the Committee, the intent of the amendments is to strengthen the regulator's compliance and enforcement powers, consistent with existing laws within the portfolio. These laws complement ongoing legal protections regarding the use, disclosure and retention of personal information by public sector agencies.</p> <p>The Department will continue to consult with relevant key stakeholders including the Information and Privacy Commission NSW to ensure the new information sharing arrangement is compliant with existing privacy laws.</p>
Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers			
Enforcement powers of Secretary	<i>Associations Incorporations Act 2009</i>	The Bill amends section 85 of the <i>Associations Incorporations Act 2009</i> to extend the Secretary's power to require the production of information and documents from a 'previously	The Department agrees with the Committee's comments that these proposals will enable the Secretary to exercise their primary function to enforce compliance with the law.

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Better Regulation Legislation Amendment (Miscellaneous) Bill 2021			
	<i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i>	<p>registered association'. Under the changes, a previously registered association means an association that was previously, and not currently, registered under the Act.</p> <p>The Bill also amends the <i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i> to provide powers for an inspector to require the production of employee records and to take possession of records to be used as evidence.</p> <p>This may provide the relevant Secretaries with broad administrative powers to compel the production of documents and take possession of records to be used as evidence. However, the Committee recognises that these powers enable the Secretaries to carry out their primary functions and enforce compliance with the requirements under the Acts. The Committee also recognises that these changes are in line with existing enforcement powers under these Acts. In these circumstances, the Committee makes no further comment.</p>	<p>As observed by the Committee, the amendments are aligned with existing enforcement provisions under the Acts and are necessary to uphold appropriate levels of regulatory oversight on industry practice.</p>
Economic rights	<i>Retirement Villages Act 1999</i>	<p>The Bill amends the <i>Retirement Villages Act 1999</i> to allow the Secretary to approve, on the application of an operator, a period longer than the prescribed period for an application of a former resident (of a retirement village) for payment of their exit entitlements following the sale of the former premises. The Bill does not</p>	<p>As noted by the Committee, the Bill does not prescribe any conditions on the Secretary's power to approve a longer waiting period for a further application for an exit entitlement order.</p> <p>This amendment enables the Secretary to take into account any exceptional</p>

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Better Regulation Legislation Amendment (Miscellaneous) Bill 2021			
		<p>specify what items the Secretary must take into consideration when granting such an order.</p> <p>This may impact the economic rights of former residents to the payment of their exit entitlement where it has been unreasonably delayed by the operator. In these circumstances, the Committee refers the provisions to the Parliament for their consideration of whether they impact on the economic rights of former residents.</p>	<p>circumstances affecting the parties in the sale or application process that would warrant the extension of the prescribed period, where applicable.</p> <p>It is not the intent of the amendment to unduly impact the economic rights of former residents. Rather, the proposed amendment will enable the Secretary to appropriately identify and respond to any unexpected circumstances affecting the residents to maintain procedural fairness and consistency. The Bill will also insert a new regulation-making power that will prescribe additional information that must be included in a valuer's determination of residential premises. This will enhance transparency and empower residents with more evidence to make informed decisions in the sale process.</p>
Inappropriately delegates legislative powers			
Commencement by proclamation	<p><i>Design and Building Practitioners Act 2020</i></p> <p><i>Retirement Villages Act 1999</i></p>	<p>Section 2 provides that Schedules 1.6, 1.13[4] and [5] are to commence on a day or days appointed by proclamation. These schedules contain amendments to the <i>Design and Building Practitioners Act 2020</i>, to insert a single definition of 'relevant authorisation', and the <i>Retirement Villages Act 1999</i>, regarding exit entitlement orders by the Secretary.</p>	<p>The comments of the Committee are noted.</p> <p>Specifying the exact commencement date for some of the Bill's amendments is not recommended as the reforms will involve consultation with many stakeholders. As noted by the Committee, necessary administrative changes may also be required to implement the proposed amendments and</p>

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Better Regulation Legislation Amendment (Miscellaneous) Bill 2021			
		<p>The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. The Committee understands that a flexible start date may be preferable for necessary administrative arrangements across these sectors. However, the Committee considers that amendments that affect an individual's economic rights should have a clear start date to provide certainty to those affected by the changes. For example, where it affects applications for payment of exit entitlements of former residents. In these circumstances, the Committee refers these provisions regarding the <i>Retirement Villages Act 1999</i> to the Parliament for its consideration.</p>	<p>time will be spent developing communication packages to advise industry of changes.</p> <p>It is anticipated that these administrative arrangements and targeted stakeholder consultation will adequately inform affected parties, including former residents of retirement villages, about the incoming changes and their impact upon commencement.</p>
<p>Matters deferred to the regulations – penalty notice offences</p>	<p><i>Building and Construction Industry Long Service Payments Act 1986</i></p> <p><i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i></p>	<p>The Bill amends the <i>Building and Construction Industry Long Service Payments Act 1986</i> and the <i>Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010</i> to allow their corresponding regulations to create penalty notice offences.</p> <p>The Committee generally prefers that provisions allowing the creation of offences be contained in the primary legislation to allow sufficient parliamentary scrutiny. However, the Committee notes that such provisions are common in a regulatory setting to promote compliance with the legislation, particularly within these business sectors. In these circumstances, the Committee makes no further comment.</p>	<p>The comments of the Committee are noted.</p> <p>The Department agrees with the Committee that penalty notice provisions are commonly found in regulatory schemes and are necessary to encourage compliance with the law.</p>

Tab A – Department Response to Digest No. 31/57

Building Legislation Amendment Bill 2021			
Trespasses on personal rights and liberties			
Issue	Legislation	LRC comments	Department response
Strict liability offences	<i>Gas and Electricity (Consumer Safety) Act 2017</i>	<p>The Bill contains a number of strict liability offences that prohibit non-compliance for metering co-ordinators under the <i>Gas and Electricity (Consumer Safety) Act 2017</i>. These strict liability offences carry a maximum penalty of 500 penalty units (\$55,000) for a corporation and 250 penalty units (\$27,500) for an individual.</p> <p>The Committee generally comments on strict liability offences as they depart from the common law principle that mens rea, or the mental element, is a relevant factor in establishing liability for an offence. This is of particular concern where significant financial penalties are attached.</p> <p>However, the Committee notes that strict liability offences are not uncommon in legislation and regulatory frameworks to ensure compliance with safe practices, particularly relating to electrical meter installations. Further, the Committee notes that the provisions impose monetary penalties rather than imprisonment, and are to provide a financial incentive for electrical meter co-ordinators to comply with safety requirements, ensure public safety and promote consumer</p>	<p>The comments of the Committee are noted.</p> <p>As noted by the Committee, the proposed amendments will ensure compliance with safety requirements, ensure public safety and promote consumer confidence in electrical meter installation.</p>

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Building Legislation Amendment Bill 2021			
		confidence in the building sector. In these circumstances, the Committee makes no further comment.	
Penalties for continuing strict liability offences	<i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i>	<p>Schedule 2 of the Bill amends the <i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i> to amend certain offences to be continuing offences and sets out the penalties for each day the offence continues. This includes offences regarding the notification to Secretary of intended completion of building work (section 7), notification of a changed expected completion date (section 8), failure to comply with a direction of an authorised officer (section 27), and failure to comply with additional orders imposed by a court (proposed section 56B).</p> <p>In relation to the above offences, the Bill sets out the maximum penalty for the offence, ranging from 500 penalty units (\$55,000) to 10,000 penalty units (\$1,100,000) for a body corporate, and from 100 penalty units (\$11,000) to 2000 penalty units (\$220,000) in any other case. The Bill also sets out the maximum penalty for the continuing offence to be issued for each day that the offence continues in each case, ranging from 50 penalty units (\$5,500) to 100 penalty units (\$110,000) each day for a body corporate, and from 10 penalty units (\$1,100) to 200 penalty units (\$22,000) each day in any other case.</p>	<p>The comments of the Committee are noted.</p> <p>The Department agrees the offences in Schedule 2 of the Bill will ensure compliance with safe practices.</p> <p>The Department also has considered the public interest aspect of these offences and their relevance in ensuring the compliance of developers with the relevant residential building laws, and that the majority of such penalties are intended to apply to body corporates and developers, rather than individuals.</p>

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Building Legislation Amendment Bill 2021			
		<p>The Committee notes that these are significant financial penalties in some cases that may be continued each day that the offence continues. This may significantly impact those to which the continuing penalties applies, particularly where it is a strict liability offence. The Committee generally comments on strict liability offences as they depart from the common law principle that <i>mens rea</i>, referring to the mental element or intent, is a relevant factor in establishing liability for an offence.</p> <p>However, the Committee notes that strict liability offences are not uncommon in legislation and regulatory frameworks to ensure compliance with safe practices. The Committee also notes the public interest aspect to ensure compliance of developers with the relevant residential building laws, and that the majority of such penalties are intended to apply to body corporates and developers, rather than individuals. In these circumstances, the Committee makes no further comments.</p>	
Powers of entry – right to privacy and property	<i>Gas and Electricity (Consumer Safety) Act 2017</i>	The Bill amends the <i>Gas and Electricity (Consumer Safety) Act 2017</i> to provide powers of entry to authorised officers of network operators and retailers to enter a premises to carry out work such as preliminary investigations for a proposed installation or extension of electricity works, reading electricity meters, or testing, maintaining or replacing meters. They may also enter for any other purpose as prescribed by the regulations.	<p>The comments of the Committee are noted.</p> <p>However, the Department does not consider the powers of entry prescribed in the Bill unjustly impede on an individual's right to privacy and property.</p> <p>Section 47 of the <i>Gas and Electricity (Consumer Safety) Act 2017</i> provides further</p>

Building Legislation Amendment Bill 2021

		<p>This power of entry may impact on a person's right to privacy and property by allowing authorised officer to enter a premises without the consent of the owner or resident.</p> <p>The Committee recognises that the power of entry is limited to the purposes of carrying out certain electricity works on the premises. The Committee also acknowledges that the Bill provides some safeguards on the use of this power of entry, by requiring that it occur during daylight hours except where there is an emergency, and by use of an existing opening in the fence if possible.</p> <p>However, under the provisions, authorised officers may still damage a premises, although as little as possible, and enter a premises through a 'new' opening that must be closed after the need for entry has ended. In these circumstances, the Committee refers the provision to the Parliament for its consideration of whether it impacts on a person's right to privacy and property.</p>	<p>protection of an individual's right to privacy and property by prescribing that the powers of entry and inspection conferred by the <i>Gas and Electricity (Consumer Safety) Act 2017</i> are not exercisable in relation to any premises or part of premises that are being used for residential purposes except with the permission of the occupier of the premises or that part of the premises or under the authority conferred by a search warrant.</p> <p>Further, a person may only enter premises under the section 55A if the Asbestos Management Code of Practice is complied with in the installation, maintenance and replacement of an advanced meter.</p> <p>The Department believes the following phrasing “may still damage a premises, although as little as possible” is not representative of the proposed provisions of the Bill. The Bill does not positively prescribe the ability of an authorised officer to damage a premises, it specifically prescribes in exercising a power under section 55A that an authorised officer “must do as little damage as possible”.</p> <p>The Department considers the proposed powers of entry under section 55A(5) of the Bill are proportionate to the need for entry of</p>
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Building Legislation Amendment Bill 2021			
			authorised officers of network operators and retailers to undertake their duties.
Inappropriately delegates legislative powers			
Commencement by proclamation	Various	Proposed section 2 of the Bill provides that Schedule 1[3]-[5] commences on a day or days to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. However, the Committee notes that the provisions within Schedule [1]-[5] make a number of changes to the administration of the design and building sector, such as the recognition of professional bodies for engineers and new processes for administrative reviews by the Tribunal. In these circumstances, a flexible start date may be beneficial, and consequently the Committee makes no further comment.	The comments of the Committee are noted.
Matters deferred to the regulations	<i>Design and Building Practitioners Act 2020</i> <i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i>	The Committee notes that the Bill defers certain matters to the regulations of the relevant Acts. For example, it amends section 55 of the <i>Design and Building Practitioners Act 2020</i> to provide that the regulations may make further provision for the recognition of a professional body of engineers by the Secretary regarding a range of matters related to the recognition of a professional body of engineers. The Bill also amends the <i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i> to provide that the	The comments of the Committee are noted.



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Building Legislation Amendment Bill 2021			
		<p>regulations may prescribe additional circumstances where the Secretary may prohibit the issuing of an occupation certificate in relation to residential apartments.</p> <p>The Committee generally comments where matters are deferred to the regulations. Unlike primary legislation, regulations are subordinate legislation and not required to be passed by Parliament and the Parliament does not control when it commences. However, the Committee recognises that regulations may be used in relation to certain administrative matters. As the matters deferred include the requirements for the registration of recognised professional body of engineers, and additional circumstances where the Secretary may issue a prohibition order, the Committee considers that deferring these matters to the regulations may afford administrative flexibility. The Committee also notes that regulatory changes are tabled in both Houses of Parliament and subject to disallowance under section 41 of the <i>Interpretation Act 1987</i>. In these circumstances, the Committee makes no further comment.</p>	
Wide power of exemption	<i>Design and Building Practitioners Act 2020</i>	The Bill amends the <i>Design and Building Practitioners Act 2020</i> and inserts subsection 107(5), which provides that the regulations may exempt all persons or bodies, specified persons or bodies or classes of persons or bodies, or all work, specified work or classes of work, or all or	The Department notes the Committee's concerns. The proposed amendments will allow the Regulation to be used to ease new practitioners and classes of building into the new scheme to ensure that the reforms are able to deliver more trustworthy buildings



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Building Legislation Amendment Bill 2021

		<p>specified registrations, from any specified provision of this Act.</p> <p>This subsection grants the regulations with a wide power to exempt any person, body or work from any specified provision of the Act. In doing so, the regulations may alter the application and operation of the Act's provisions. Additionally, that this power is contained in the regulations means that such exemptions would not be required to be passed by Parliament and may commence as soon as it is published.</p> <p>The Committee recognises the benefits of administrative flexibility that regulations afford, and that regulatory changes are tabled in both Houses of Parliament and subject to disallowance under section 41 of the <i>Interpretation Act 1987</i>. However, the Committee considers that significant matters that may alter the application of the Act should be contained in the primary legislation, such as a wide power of exemption for any person, body or work from any part of the Act. The Committee refers the provision to the Parliament for its consideration of whether it inappropriately delegates legislative power.</p>	<p>designed and constructed by competent practitioners.</p>
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The Honourable Victor Dominello MP
Minister for Digital
Minister for Customer Service

Our reference: COR-03679-2021

Ms Felicity Wilson MP
Legislation Review Committee
Parliament of New South Wales

By email: legislation.review@parliament.nsw.gov.au

Dear Ms Wilson

Thank you for your letter dated 9 June 2021 outlining the comments of the Legislative Review Committee in relation to the Liquor Amendment (Miscellaneous) Regulation 2021 and providing the opportunity to respond.

The change referred to in your correspondence aims to prevent the small bar licence from being used to run adult relaxation entertainment facilities that provide sexually explicit forms of entertainment. This reflects that the licence is intended to support lower-risk small bar operations, as noted in the Second Reading Speech for the Liquor Amendment (Small Bars) Bill 2013. It has low risk-based licensing fees and licence conditions that reflect this risk profile.

Changes to the liquor laws passed by the NSW Parliament in November 2020 have further reinforced the licence's lower-risk status and mean small bars can receive automatic approval to commence trading up until 2am when they lodge a liquor licence application. They can also have minors on the premises in various circumstances.

Should any business seek to use a small bar licence to run a facility that is regularly used for adult relaxation entertainment, like strip clubs or sex industry premises, it would be inconsistent with the policy intent for the licence. These activities are not considered to be lower-risk, and it would not be appropriate to allow automatic trading approvals or minors.

As the Committee has noted, the Regulation already uses the phrase "adult relaxation entertainment." This reflects that Liquor & Gaming NSW has a longstanding approach to licensing adult entertainment venues. A special class of on-premises licence exists for any business operating as an "adult relaxation entertainment facility." More extensive community consultation (including a Community Impact Statement) is required before adult entertainment businesses can be approved to trade using this class of licence, and conditions, fees and training requirements reflect associated risks. Liquor & Gaming NSW has conveyed these arrangements to industry and the public through communications and guidance materials.

Thank you again for your interest in this matter.

Yours sincerely

Victor Dominello MP
Minister for Digital
Minister for Customer Service

Date: 30/06/2021



Mark Speakman
Attorney General

IM21/16956
EAP21/10669

Mr Dave Layzell
Chairperson
Legislation Review Committee
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6 Macquarie Street
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legislation.review@parliament.nsw.gov.au

Dear Mr Layzell

Legislation Review Committee review of the Mental Health and Cognitive Impairment Forensic Provisions Regulation 2021

Thank you for your letter, received 9 June 2021, about the Mental Health and Cognitive Impairment Forensic Provisions Regulation 2021 (**the Regulation**). I apologise for the delay in responding.

I note the Legislative Review Committee's concerns about Part 3 of the Regulation appearing to operate to amend the *Mental Health Act 2007* (**MHA**).

The MHA provides for the care and treatment, including involuntary treatment, of persons who have a mental illness. One form of involuntary treatment it provides for is the making of a Community Treatment Order (**CTO**). The MHA provides for the process for making an application for a CTO and who is responsible for implementing a CTO. CTOs made under the MHA are known as "civil CTOs".

The *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (**MHCIFPA**) sets out the processes for criminal proceedings involving persons with a mental health or cognitive impairment and their care, treatment and supervision. CTOs made under the MHCIFPA are known as "forensic CTOs".

Section 99(2) of the MHCIFPA applies the provisions of the MHA relating to the making of CTOs and allows regulations to be made to vary the provisions of the MHA that are applied in relation to the making of forensic CTOs (those under the MHCIFPA).

Section 99 of the MHCIFPA was transferred across from s.67(2) of the now-repealed *Mental Health (Forensic Provisions) Act 1990*. The previous Regulation, Mental Health (Forensic Provisions) Regulation 2017, also modified the MHA for the purposes of forensic CTOs.

The clauses of the Regulation varying the MHA are considered to be appropriate, given that provisions relating to civil CTOs will not always be applicable or appropriate in a forensic context. It allows for a more nuanced and flexible response to issues in the forensic and correctional system. For example, agencies responsible for providing treatment to persons in

correctional centres are better placed to make applications for forensic CTOs and oversee their implementation, rather than community mental health services.

I acknowledge that the Legislative Review Committee also reviewed the Regulation for any undue interference with personal rights and liberties. I note that the Committee was satisfied with the safeguards attached to provisions permitting disclosure of certain information about victim submissions in particular circumstances.

Thank you for taking the time to write.

Yours sincerely

A handwritten signature in black ink that reads "Mark Speakman". The signature is written in a cursive, flowing style.

Mark Speakman
24 December 2021