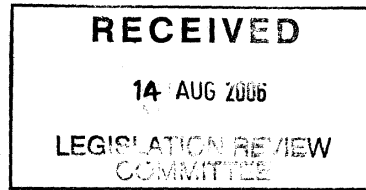


JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Mr Allan Shearan MP
Chairman
Legislation Review Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000



By facsimile: (02) 9230 3052

Dear Chairman

Comment on Discussion Paper on *Strict and Absolute Liability Offences*

Thank you for the opportunity to comment on the above discussion paper.

I note that the proposed principles for the consideration of strict and absolute liability offences are appropriate and well-drafted. I therefore have no suggested amendments to the principles.

The discussion paper will also be a valuable tool for those Western Australian parliamentary committees that scrutinise legislation. Although the issue of strict and absolute liability offences has not been dealt with at length by any Western Australian parliamentary committees, I note more generally that in the consideration of bills, standing committees of the Legislative Council of Western Australia have on a number of occasions in recent years commented on provisions where the burden of proof has been reversed.¹

On the issue of penalties, I note that in a May 2003 report of the former Western Australian Legislative Council Public Administration and Finance Committee on the *Economic Regulation Authority Bill 2002*, that committee noted a number of strict liability offences that were subject to a penalty of \$10,000, and one that was subject to a penalty of \$10,000 or 12 months of imprisonment.

¹ Western Australia, Legislative Council, Public Administration and Finance Committee, *Economic Regulation Authority Bill 2002*, May 2003, pp21-22; Western Australia, Legislative Council, Uniform Legislation and General Purposes Committee, *Offshore Minerals Bill 2001*, *Offshore Minerals (Registration Fees) Bill 2001* and *Offshore Minerals (Consequential Amendments) Bill 2001*, June 2002, 2003, pp49-50; and Western Australia, Legislative Council, Uniform Legislation and General Purposes Committee, *Censorship Amendment Bill 2002*, October 2002, p12; Western Australia, Legislative Council, Standing Committee on Legislation, *Road Traffic Amendment (Dangerous Driving) Bill 2004*, October 2004, pp32-39.


G:\Data\DG\DGCR\dg.all.060809.let.001.as.d.doc

PARLIAMENT HOUSE PERTH WA 6000 TELEPHONE +61 8 9222 7222
FACSIMILE: HOUSE +61 8 9222 7809 COMMITTEES +61 8 9222 7805
E-MAIL (GENERAL OFFICE): council@parliament.wa.gov.au

Although no recommendation was made by the committee to amend that particular Bill, I would anticipate that such a penalty would be regarded by Western Australian legislative scrutiny committees as being at the very upper limit of an appropriate penalty for a strict liability offence. Such a penalty for a strict or absolute liability offence would most likely as a minimum be highlighted in a committee report on that legislation so as to bring the matter to the attention of the House.

If you would like any further information, please do not hesitate to contact me on (08) 9222 7294.

Yours sincerely



Paul Grant
Advisory Officer (Legal)

14 August 2006