

Monitor 2 of 2020 - Committee correspondence

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13 February 2020

Senator Susan McDonald

Chair

Senate Rural and Regional Affairs and Transport Legislation Committee

Parliament House

CANBERRA ACT 2600

Via email: rrat.sen@aph.gov.au

CC: The Hon David Littleproud MP, Minister for Agriculture, Drought and
Emergency Management, David.Littleproud.MP@aph.gov.au

Dear Chair,

**Competition and Consumer (Industry Codes—Dairy) Regulations 2019
[F2019L01610]**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate. These may include instruments which contain significant policy matters or significant elements of a regulatory scheme, instruments which amend primary legislation, and instruments which have a significant impact on personal rights and liberties.

The above instrument establishes a mandatory Dairy Code of Conduct that sets out a regulatory scheme for enforceable minimum standards of conduct for business practices between dairy farmers and processors of milk. In doing so, the instrument appears to implement significant elements of a regulatory scheme, and addresses matters which have been subject to a number of significant external reviews. I also note that the Rural and Regional Affairs and Transport References Committee is currently conducting an inquiry into the performance of Australia's dairy industry. Accordingly, the committee has resolved to draw this instrument to the attention of the Senate and your committee under standing order 23(4).

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments made in the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine this instrument, I note the time for lodging a disallowance notice expires on 12 May 2020.

To assist in your committee's consideration of this matter, please find attached a copy of the instrument and its explanatory statement. These documents are also published on the Federal Register of Legislation at <https://www.legislation.gov.au/Details/F2019L01610>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

Senator Wendy Askew
Chair
Senate Community Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: community.affairs.sen@aph.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instruments listed in the attached table, in combination with their enabling Act, authorise Commonwealth expenditure on the identified grants or programs. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instruments engage standing order 23(4), and accordingly has resolved to draw them to the attention of your committee.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine any of the listed instruments, I note the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instruments are published on the Federal Register of Legislation at the links provided in the attached table.

I also attach for the information of your committee a copy of a letter sent to the Minister for Finance regarding a technical scrutiny issue arising in relation to one of this listed instruments—the Financial Framework (Supplementary Powers) Amendment (Health Measures No. 3) Regulations 2019. As noted in the letter, the committee has requested the minister's advice in relation to the amount of funding that is expected to be expended on a grant to the administrator of the DP Jones Nursing Home, noting that the explanatory statement does not disclose this information.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation

cc: The Hon Greg Hunt MP, Minister for Health
Greg.Hunt.MP@aph.gov.au

Senator the Hon Anne Ruston, Minister for Families and Social Services
Senator.Ruston@aph.gov.au

Senator the Hon Mathias Cormann, Minister for Finance
Senator.Cormann@aph.gov.au

Department of Finance,
FFSPRegs@finance.gov.au

Legislative instruments specifying Commonwealth expenditure
(instruments registered between 4 December 2019 and 16 January 2020 in the
Community Affairs portfolios)

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 2) Regulations 2019 [F2019L01640]	Grants for support relating to stillbirth, miscarriage and newborn death	\$1.3 million over two years from 2019-20.	Funding will be provided to SANDS to pilot in-hospital and at-home support services for women and their families after a stillbirth, miscarriage or newborn death at five hospital sites in New South Wales, Victoria, Queensland, Western Australia, and South Australia.
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 3) Regulations 2019 [F2019L01642]	Grant to DP Jones Nursing Home	The explanatory statement to the instrument states that 'the funding amount will be commercial-in-confidence, and not suitable for publication'.	Funding will be provided to the administrator of the DP Jones Nursing Home in Murchison, Victoria, to enable the administrator to continue operating the facility while they seek to finalise the sale of the facility to a new provider and to assist with the cost of the sale.
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 6) Regulations 2019 [F2019L01628]	Seniors Connected—Phone Support	Approximately \$1 million per year over four years from 2019-20.	Funding will be provided to Friends for Good to expand their phone support service 'Friend Line' from three days a week to seven days a week in Sydney, Melbourne, Brisbane, Perth and Adelaide.



13 February 2020

Senator the Hon James McGrath
Chair
Senate Education and Employment Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: eec.sen@aph.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instruments listed in the attached table, in combination with their enabling Act, authorise Commonwealth expenditure on the identified grants or programs. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instruments engage standing order 23(4), and accordingly has resolved to draw them to the attention of your committee.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine either of the listed instruments, I note the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instruments are published on the Federal Register of Legislation at the links provided in the attached table.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation

cc: The Hon Dan Tehan MP, Minister for Education
Dan.Tehan.MP@aph.gov.au

Senator the Hon Michaelia Cash, Minister for Employment, Skills, Small
and Family Business, Senator.Cash@aph.gov.au

Senator the Hon Mathias Cormann, Minister for Finance
Senator.Cormann@aph.gov.au

Department of Finance
FFSPRegs@finance.gov.au

Legislative instruments specifying Commonwealth expenditure
(instruments registered between 4 December 2019 and 16 January 2020 in the
Education and Employment portfolios)

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Education Measures No. 5) Regulations 2019 [F2019L01639]	Grant to News Corp—Online Spelling Bee	\$345,240 one-off grant in 2019-20.	Funding will be provided to News Corp Australia Pty Limited to undertake a website build for <i>Kids News: the PM's Spelling Bee</i> .
	Future Leaders Program	\$7.5 million over two years from 2020-21.	Under the Future Leaders Program funding will be provided to Teach For Australia to train high achieving teachers and high quality school leaders in rural, remote or disadvantaged schools.
	Rural Inspire Program	\$2 million over three years from 2019-20.	Under the Rural Aspire Program funding will be provided to Country Education Partnership to provide support to Year 11 students in rural and remote schools.
	Online tertiary learning repository (TLR) services	\$2.5 million over four years from 2019-20.	The TLR will be a centralised, digital platform that will provide higher education students with details of their achievements while undertaking an Australian Qualifications Framework qualification.
Financial Framework (Supplementary Powers) Amendment (Employment, Skills, Small and Family Business Measures No. 5) Regulations 2019 [F2019L01637]	Commonwealth Scholarships Program for Young Australians	\$8.2 million over three years from 2019-20.	The Commonwealth Scholarships Program for Young Australians will provide around 400 scholarships to eligible VET students in ten regions with above average levels of youth unemployment (Grafton, Gosford, Alice Springs, Maryborough, Townsville, Port Pirie, Burnie, Shepparton, Wanneroo and Armadale). The scholarships will be available to students studying a course which leads to an eligible occupation in areas of current skill shortage and in growth industries.

Instrument	Grant/Program	Amount	Description
	Harvest Trail Service— Collaborating with Industry	\$1 million over two years from 2020-21.	Under this program horticulture and agriculture industry peak bodies will be invited to submit ideas aimed at promoting seasonal work opportunities to local job seekers and encouraging growers to hire Australian job seekers.
	Jobs and Education Data Infrastructure (JEDI)	\$28.2 million over four years from 2018-19.	The JEDI program will involve the development of a data engine to bring together multiple sources of traditional and real-time data on skills demand and supply.
	National Careers Institute (NCI) Grants Program	\$36.3 million over four years from 2019-20.	The NCI grants program will provide funding for collaborative, locally-based partnerships between careers' stakeholders. Funding may be provided to build career advice capacity in schools, support work experience opportunities, and increase career advisor awareness of new and emerging industries.



13 February 2020

Senator the Hon David Fawcett
Chair
Senate Environment and Communications Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: ec.sen@aph.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises Commonwealth expenditure on the National Product Stewardship Investment Fund. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Environment and Energy Measures No. 3) Regulations 2019 [F2019L01630]	National Product Stewardship Investment Fund (NPSIF)	\$20 million over four years from 2019-20.	The NPSIF will provide grant funding to support the establishment of new product stewardship schemes and improve recycling rates of existing schemes. Examples of product stewardship activities include recovering valuable resources that can be used to make new products.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine this instrument, I note that the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instrument are published on the Federal Register of Legislation at the link provided in the table above.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation

cc: Senator the Hon Mathias Cormann, Minister for Finance,
Senator.Cormann@aph.gov.au

The Hon Sussan Ley MP, Minister for the Environment,
Sussan.Ley.MP@aph.gov.au

Department of Finance, FFSPRegs@finance.gov.au



13 February 2020

Senator the Hon Eric Abetz
Chair
Senate Foreign Affairs, Defence and Trade Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: fadt.sen@aph.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises Commonwealth expenditure on the Pacific Secondary School Scholarships Program. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Foreign Affairs and Trade Measures No. 2) Regulations 2019 [F2019L01631]	Pacific Secondary School Scholarships (PSSS) Program	\$66 million over four years from 2019-20.	The PSSS program will provide scholarships for education, accommodation and related welfare support to eligible Pacific island students to undertake study in Australian secondary schools.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine this instrument, I note the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instrument are published on the Federal Register of Legislation at the link provided in the table above.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation

cc: Senator the Hon Marise Payne, Minister for Foreign Affairs,
Senator.Payne@aph.gov.au

Senator the Hon Mathias Cormann, Minister for Finance,
Senator.Cormann@aph.gov.au

Department of Finance, FFSPRegs@finance.gov.au



13 February 2020

Senator Amanda Stoker
Chair
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

via email: legcon.sen@aph.gov.au

cc: The Hon Peter Dutton MP, Minister for Home Affairs,
Peter.Dutton.MP@aph.gov.au

Senator the Hon Mathias Cormann, Minister for Finance,
Senator.Cormann@aph.gov.au

Department of Finance, FFSPRegs@finance.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises Commonwealth expenditure on the Community Languages Multicultural Grants Program. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Home Affairs Measures No. 1) Regulations 2019 [F2019L01632]	Community Languages Multicultural Grants Program	\$12.6 million over three years from 2019-20.	The Community Languages Multicultural Grants Program will support not-for-profit community language schools through capacity grants (to help cover operating costs such as teaching materials, staff wages and new educational equipment), and project grants (to develop teaching materials or to run training activities to benefit community language schools).

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine this instrument, I note the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instrument are published on the Federal Register of Legislation at the link provided in the table above.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

Senator Susan McDonald

Chair

Senate Rural and Regional Affairs and Transport Legislation Committee

Parliament House

CANBERRA ACT 2600

via email: rrat.sen@aph.gov.au

Dear Chair,

Legislative instruments specifying Commonwealth expenditure

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instruments listed in the attached table, in combination with their enabling Act, authorise Commonwealth expenditure on the identified grants or programs. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instruments engage standing order 23(4), and accordingly has resolved to draw them to the attention of your committee.

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine either of the instruments, I note the time for lodging a disallowance notice expires on 12 May 2020.

Further details about the instruments are published on the Federal Register of Legislation at the links provided in the table above.

Finally, please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation

cc: Senator the Hon Mathias Cormann, Minister for Finance,
Senator.Cormann@aph.gov.au

The Hon Michael McCormack MP, Minister for Infrastructure, Transport and
Regional Development, Michael.Mccormack.MP@aph.gov.au

The Hon David Littleproud MP, Minister for Agriculture, Drought and
Emergency Management, David.Littleproud.MP@aph.gov.au

Department of Finance,
FFSPRegs@finance.gov.au

Legislative instruments specifying Commonwealth expenditure
(instruments registered between 4 December 2019 and 16 January 2020 in the
Rural and Regional Affairs and Transport portfolios)

Instrument	Grant/Program	Amount	Description
Financial Framework (Supplementary Powers) Amendment (Agriculture Measures No. 2) Regulations 2019 [F2019L01638]	Promoting Sustainable Fisheries and Combating Illegal, Unreported and Unregulated Fishing in Southeast Asia and Pacific Islands	\$14.4 million over four years from 2019-20.	The Promoting Sustainable Fisheries and Combating Illegal, Unreported and Unregulated Fishing in Southeast Asia and Pacific Islands Program will provide technical assistance to Southeast Asian countries to promote sustainable fisheries and increase their capacity to counter illegal, unreported and unregulated fishing.
	Fisheries Habitat Restoration (FHR) Program	\$8 million over four years from 2019-20.	The FHR Program will provide funding to organisations, which may include non-government organisations, fishing clubs and local land care groups, to deliver fisheries habitat restoration projects.
Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Cities and Regional Development Measures No. 2) Regulations 2019 [F2019L01629]	Regional Airports Program	\$100 million over four years from 2019-20.	The Regional Airports Program will provide financial assistance to the owners and operators of regional airports to undertake aviation safety and access work.



13 February 2020

Senator the Hon Richard Colbeck
Minister for Aged Care and Senior Australians
Parliament House
CANBERRA ACT 2600

Via email: Minister.Colbeck.DLO@health.gov.au

CC: parliamentary.committees@health.gov.au

Dear Minister,

Aged Care Quality and Safety Commission Amendment (Integration of Functions) Rules 2019 [F2019L01684]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Scope of administrative powers

Senate standing order 23(3)(c) requires the committee to scrutinise each instrument as to whether it makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers.

New subsection 53A(1) of the Aged Care Quality and Safety Commission Rules 2018, inserted by item 35 of Schedule 1 to the instrument, provides that the Aged Care Commissioner (the commissioner) may appoint one or more individuals as 'quality assessors' to form a quality assessment team to conduct a quality audit of a home service. Division 3 of Part 8 of the *Aged Care Quality and Safety Commission Act 2018* (Aged Care Commission Act) provides for the conferral of search and entry powers on 'quality assessors'.

Where an instrument provides for the appointment of a person or class of persons to a position in which they may be empowered to exercise search and entry powers, the committee expects those persons to possess the appropriate qualifications or experience necessary to exercise those powers. In this regard, while subsection 53A(2) prohibits the

commissioner from appointing a quality assessor with a conflict of interest in the assessment, the instrument does not appear to require quality assessors to possess any particular qualifications, expertise or experience.

The committee requests your advice as to whether individuals appointed as 'quality assessors' under subsection 53A(1) of the instrument are required to possess any particular qualifications, expertise or experience, noting that the Aged Care Commission Act empowers assessors to exercise search and entry powers for regulatory purposes.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon David Littleproud MP
Minister for Agriculture, Drought and Emergency Management
Parliament House
CANBERRA ACT 2600

Via email: David.Littleproud.MP@aph.gov.au

CC: DLO-MO@agriculture.gov.au; tsrdlos@treasury.gov.au;
CommitteeScrutiny@treasury.gov.au

Dear Minister,

Competition and Consumer (Industry Codes—Dairy) Regulations 2019 [F2019L01610]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Matters of interest to the Senate

Senate standing order 23(4) requires the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest. These may include instruments which contain significant policy matters or significant elements of a regulatory scheme, instruments which appear to be contrary to the intention of the enabling Act, instruments which amend primary legislation, instruments which have a significant impact on personal rights and liberties, and instruments which specify Commonwealth expenditure.

As a practical matter, the committee draws the Senate's attention to such instruments by including the matter in the *Delegated Legislation Monitor*, and alerting the relevant legislation or joint committee to the instrument in public correspondence. The committee may also draw the Senate's attention to the instrument on the floor of the chamber in tabling the *Delegated Legislation Monitor*.

Noting that the instrument appears to implement significant elements of a regulatory scheme, and addresses matters which have been subject to a number of significant reviews, the committee has resolved to draw this instrument to the attention of the

Senate, and notify the Senate Rural and Regional Affairs and Transport Legislation Committee of the instrument.

Parliamentary oversight

Senate standing order 23(3)(k) requires the committee to scrutinise each instrument as to whether it complies with any other ground relating to the technical scrutiny of delegated legislation that the committee considers appropriate. Under this principle, the committee is concerned to ensure that legislative instruments promote appropriate levels of parliamentary scrutiny and oversight.

Section 6 of the instrument provides that the Agriculture Minister must ensure that two reviews of the instrument are conducted within the first five years of the instrument's commencement. Subsection 6(4) provides that 'each review must assess the role, impact and operation of the instrument'. Subsection 6(7) requires the Agriculture Minister to ensure that a written report of each review is prepared; however, the instrument does not appear to require the report to be tabled in Parliament or published online.

Tabling documents in Parliament is important to parliamentary scrutiny, as it alerts parliamentarians to the existence of the documents and provides opportunities for debate that are not available where documents are not tabled. Accordingly, the committee considers that instruments which provide for the review of significant matters should require the review report to be tabled in Parliament. Such reports should also be published online, in the interests of promoting transparency and accountability.

The explanatory statement to the instrument explains that 'the reviews are intended to provide insight into the role, impacts and operation of the Code since it commenced and determine whether any amendments need to be made'. However, it does not appear to explain why there is no requirement to table or publish the written reports of the review.

Accordingly, the committee requests your advice as to why the instrument does not require the written reports of each review of the instrument to be tabled in Parliament and published online.

Unclear drafting; significant penalties

Subsection 11(1) of the instrument provides that a processor 'must at all times deal with farmers in good faith, within the meaning of the unwritten law as in force from time, in relation to the supply of milk'. Failure to comply with this requirement attracts a civil penalty of 100 penalty units (\$21 000) for small business entities and 300 penalty units (\$63 000) for other entities. Subsection 11(2) imposes a similar obligation on farmers, with a civil penalty of 100 penalty units for failure to comply.

Subsection 11(4) provides a non-exhaustive list of factors which may be taken into account in determining whether a processor or farmer has acted in good faith. However, subsection 11(5) of the instrument clarifies that this list does not limit subsections 11(1) and 11(2).

The explanatory statement to the instrument notes that the civil penalty provisions in section 11 are justified on the basis that business dealings between processors and farmers 'should be measured by a broader principle such as good faith'. It also notes that section 11 provides guidance on determining whether parties have acted in good faith.

Whilst noting the policy rationale for these provisions, the committee is concerned that the instrument imposes significant civil penalties for failing to comply with a term that is not defined in the written law. In this regard, the committee draws your attention to the Attorney-General's Department's *Guide to Framing Commonwealth Offences*, which states that 'the scope of an offence should be clear on its face'. The committee acknowledges that these are civil penalty provisions rather than offences, and that subsection 11(4) may provide some guidance as to the meaning of the term 'good faith'. However, it is unclear to the committee how subsection 11(4) can, of itself, ensure sufficient clarity and certainty required of civil penalty and offence provisions, given the list of factors is non-exhaustive and the provision itself is non-binding.

Accordingly, the committee requests your advice as to whether the instrument could be amended to ensure that the scope of the civil penalty provisions is limited by terms defined in the written law and, if not, why not.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon Karen Andrews MP
Minister for Industry, Science and Technology
Parliament House
CANBERRA ACT 2600

Via email: Karen.Andrews.MP@aph.gov.au

CC: industrydlo@industry.gov.au; CommitteeScrutiny@treasury.gov.au

Dear Minister,

Competition and Consumer Amendment (Australian-made Complementary Medicines) Regulations 2019 [F2019L01627]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Matters more appropriate for parliamentary enactment

Senate standing order 23(3)(j) requires the committee to consider whether an instrument contains matters more appropriate for parliamentary enactment (that is, matters that should be included in primary, rather than delegated, legislation).

Section 255 of the Australian Consumer Law (the ACL) allows country of origin representations to be made if the representation satisfies certain requirements. This provision is commonly referred to as the 'safe harbour provision'. Under this provision a representation that goods were made in a particular country may be made if 'the goods were last substantially transformed in that country'.

The regulations provide that complementary medicines, such as vitamins, herbal medicines, and sports supplements, may rely on the safe harbour provision and therefore make 'made in Australia' claims if they undergo the 'last step in the manufacture of the dosage form' in Australia. It therefore appears that the effect of the regulations is to allow manufacturers of complementary medicines to make 'made in Australia' claims even where there is no 'substantial transformation' of the relevant goods in Australia as required by the ACL.

In this regard, the committee notes that in December 2018, the Federal Court held that the encapsulation of imported fish oil (from Chile) and Vitamin D (from China) in Australia did not qualify for the 'Made in Australia' logo, as the mere encapsulation of these ingredients did not represent 'substantial transformation' of a product as required by the ACL (see *Nature's Care Manufacture Pty Ltd v Australian Made Campaign Limited* [2018] FCA 1936 (3 December 2018)).

The committee further notes that your media release of 18 December 2019 indicates that amendments will be proposed to the ACL this year to provide that 'made in Australia' claims based on the lower threshold will be required to display a bar chart showing the proportion of Australian ingredients.

The committee appreciates the significant complexities and history associated with the subject matter of this instrument. Nevertheless, as a matter of technical scrutiny, the committee is required to scrutinise each legislative instrument as to whether it contains matters more appropriate for parliamentary enactment.

In this regard, the committee requests your advice as to why it is considered necessary and appropriate to use delegated legislation, rather than primary legislation, to lower the threshold for manufacturers of complementary medicines to make 'made in Australia' claims, noting that associated changes to the primary legislation are currently being formulated.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon Josh Frydenberg MP
Treasurer
Parliament House
CANBERRA ACT 2600

Via email: Josh.Frydenberg.MP@aph.gov.au

CC: tsrdlos@aph.gov.au, committeescrutiny@treasury.gov.au

Dear Treasurer,

**Corporations Amendment (Design and Distribution Obligations) Regulations 2019
[F2019L01626]**

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Matters more appropriate for parliamentary enactment

The explanatory statement to the instrument explains that the purpose of the instrument is to enhance the design and distribution obligations (DDO) regime 'by altering the products and persons in relation to which the DDO regime applies'. For example, item 2 of Schedule 1 to the instrument amends the *Corporations Regulations 2001* to exempt employers from the regime where the employer is complying with certain superannuation guarantee obligations.

The DDO regime is due to be inserted into the *Corporations Act 2001* when Schedule 1 to the *Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019* (amending Act) commences on 5 April 2021. Noting that the provisions to which the exemptions apply are not due to commence until April 2021, it is unclear to the committee why it was considered necessary and appropriate to use delegated legislation to create exemptions to those provisions, instead of including them directly in the amending Act.

The committee would therefore appreciate your advice as to why it was considered necessary and appropriate to include the exemptions in delegated legislation rather than

primary legislation, noting that the provisions to which the exemptions apply are yet to commence.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon David Littleproud MP
Minister for Agriculture, Drought and Emergency Management
Parliament House
Canberra ACT 2600

Via email: David.Littleproud.MP@aph.gov.au

CC: DLO-MO@agriculture.gov.au

Dear Minister,

Export Control (Sheepmeat and Goatmeat Export to the European Union Tariff Rate Quotas) Order 2019 [F2019L01564]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Automated decision-making

Section 34 of the instrument provides for the use of automated decision-making by allowing the secretary to arrange for the use of computer programs for making decisions under the instrument. Subsections 19(4) and 20(7) require the secretary to make discretionary decisions regarding tariff rate quota certificates which require the determination of 'appropriateness'. In addition, subsection 23(2) requires the secretary to make discretionary decisions according to the consideration of certain listed matters but not any specifically defined criteria.

The committee is concerned that administrative law typically requires decision-makers to engage in an active intellectual process in respect of the decisions they are required or empowered to make. A failure to engage in such a process—for example, where decisions are made by computer rather than by a person—may lead to legal error.

In addition, there are risks that the use of an automated decision-making process may operate as a fetter on discretionary power, by inflexibly applying predetermined criteria to decisions that should be made on the merits of the individual case. These matters are particularly relevant to more complex or discretionary decisions, and circumstances where

the exercise of a statutory power is conditioned on the decision-maker taking specified matters into account or forming a particular state of mind.

While section 31 provides for independent merits review of these decisions, the committee does not consider this an adequate safeguard to redress the risk of error created by enabling computer programs to make discretionary decisions under subsections 19(4), 20(7) and 23(2), nor does it rationalise the appropriateness of this form of decision-making.

In this regard, the committee draws your attention to the requirements of the best practice principles identified in the Administrative Review Council report, *Automated Assistance in Administrative Decision Making*, which suggests that discretionary decisions should not be made through automated decision-making.

The committee would therefore appreciate your advice as to:

- **why it is considered necessary and appropriate to provide for automated decision-making in the decision-making process;**
- **what safeguards are in place to ensure that the decision-maker exercises their discretionary powers personally and without fetter; and**
- **whether the automated assistance in the decision-making process complies with the Administrative Review Council's ['best practice principles for automated assistance in administrative decision making'](#), and, if not, why not.**

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

Senator the Hon Mathias Cormann
Minister for Finance
Parliament House
CANBERRA ACT 2600

Via email: Senator.Cormann@aph.gov.au

CC: DLO-Finance@finance.gov.au; plc@finance.gov.au; FFSPRegs@finance.gov.au

Dear Minister,

Financial Framework (Supplementary Powers) Amendment (Health Measures No. 3) Regulations 2019 [F2019L01642]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Adequacy of explanatory materials and parliamentary oversight

The instrument inserts new table item 38 into Part 3 of Schedule 1AB to the Financial Framework (Supplementary Powers) Regulations 1997 to establish legislative authority for government spending on a grant to the DP Jones Nursing Home.

The explanatory statement to the instrument explains that funding will be provided to enable the administrator of the nursing home 'to continue operating the facility while they seek to finalise the sale of the facility to a new provider and to assist with the cost of the sale'. The explanatory statement further states that the 'funding terms, including the drawdown schedule, will be determined through negotiations between the department and the administrator, and as a result, the funding amount will be commercial-in-confidence, and not suitable for publication'.

The committee notes that the scrutiny of instruments made under the *Financial Framework (Supplementary Powers) Act 1997* is a key aspect of parliamentary scrutiny and control of Commonwealth expenditure. In this regard, the committee is concerned that the non-disclosure of the funding amount may inhibit Parliament's capacity to effectively scrutinise such instruments.

The committee therefore requests your advice as to:

- whether it is intended at any point in the future to inform the Parliament as to the amount of funding that is expected to be expended on this grant; and
- if not, a more detailed justification as to why the amount of funding should be considered 'commercial-in-confidence' and not disclosed to the Parliament, noting the importance of effective parliamentary oversight of executive expenditure.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon Greg Hunt MP
Minister for Health
Parliament House
CANBERRA ACT 2600

Via email: Greg.Hunt.MP@aph.gov.au

CC: Minister.Hunt.DLO@health.gov.au

Dear Minister,

National Health (Take Home Naloxone Pilot) Special Arrangement 2019 (PB 97 of 2019) [F2019L01542]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23. The committee has identified particular scrutiny concerns in relation to the above instrument, and the committee seeks your advice about this matter.

Section 25 of the instrument provides that the secretary may authorise a person to perform any of the secretary's functions or exercise any of the secretary's powers under the instrument on the secretary's behalf. The committee is concerned about the source of legislative authority for this provision, and the proposed scope and form of the authorisation.

Compliance with authorising legislation

The instrument is made under section 100 of the *National Health Act 1953* (National Health Act). Section 100 enables the minister to make special arrangements relating to providing an adequate supply of pharmaceutical benefits. It does not expressly provide for the authorisation of persons to administer such arrangements, or perform the functions of the secretary in administering such arrangements. In the absence of further information in the explanatory statement, it is unclear to the committee how the legislative authority for such an authorisation could be implied from section 100 of the National Health Act.

In this regard, the committee notes that there is a question as to whether third parties might be impliedly authorised to perform the secretary's functions in accordance with the decision in *Carltona Ltd v Commissioners of Works* [1943] 2 All ER 560 ('*Carltona*'). However, it is unclear to the committee how that decision could apply in this instance, noting that it concerned the implied authorisation of a senior departmental officer by the

minister to exercise the minister's powers, in the absence of an express delegation. By contrast, this matter involves the authorisation of a private contractor by the secretary, rather than minister, to perform administrative functions conferred by legislative instrument on the secretary. The committee is unaware of any common law principle which provides authority for the implied authorisation of private contractors to perform administrative functions conferred by legislative instrument on departmental secretaries.

The committee therefore requests your advice as to how section 100 of the National Health Act provides implied authority for the secretary to authorise third parties to perform the secretary's functions or exercise their powers; noting, in particular, the committee's concerns that the authorisation is not supported by the decision in *Carltona Ltd v Commissioners of Works* [1943] 2 All ER 560, for the reasons outlined above.

Scope and form of the authorisation

Scope of powers and functions to be performed by authorised persons

Subsection 25(1) of the instrument provides that the Secretary may authorise persons to perform 'any of the Secretary's functions' and 'any of the secretary's powers' under the instrument. In the absence of further information in the explanatory statement, it is unclear to the committee why it is necessary to authorise third parties to perform such a broad category of powers and functions.

The committee therefore requests your advice as to why it is considered reasonable and necessary to authorise a third party to perform all powers and functions which can be exercised by the secretary under the instrument.

Qualifications of the persons authorised to perform the secretary's functions

Subsection 25(1) of the instrument also provides that the persons who may be authorised to perform the secretary's functions must have 'suitable qualifications and experience'. Noting the very broad scope of the powers and functions which the secretary may authorise such a person to perform and exercise, the committee is concerned that the instrument does not specify the relevant qualifications and experience which such a person must possess.

The committee therefore requests your advice as to whether the instrument can be amended to provide greater specificity as to the qualifications and experience which an authorised person must possess.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **27 February 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon Paul Fletcher MP
Minister for Communications, Cyber Safety and the Arts
Parliament House
CANBERRA ACT 2600

Via email: Paul.Fletcher.MP@aph.gov.au

CC: dlo@communications.gov.au

Dear Minister,

Broadcasting Services (Transmitter Access) Regulations 2019 [F2019L01248]

Thank you for your response of 6 February 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument.

The committee considered your response at its private meeting on 12 February 2020. On the basis of your advice, the committee has concluded its examination of the instrument.

The committee welcomes your undertaking to amend the explanatory statement to the instrument to explicitly provide that the instrument does not override the common law privilege against self-incrimination. On behalf of the committee, I thank you for your constructive engagement with the committee regarding its scrutiny concerns.

In the interests of transparency, I note that this correspondence will be published on the committee's website, and your undertaking to amend the explanatory statement will be recorded in the *Delegated Legislation Monitor*.

Thank you again for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon Michael McCormack MP
Minister for Infrastructure, Transport, Regional Development and Communications
Parliament House
CANBERRA ACT 2600

Via email: Michael.McCormack.MP@aph.gov.au
CC: dlo.mccormack@infrastructure.gov.au

Dear Minister,

**CASA EX101/19 – Helicopter Aerial Application Endorsements Exemption 2019
[F2019L01132]**

Thank you for your response of 31 January 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument.

The committee considered your response at its private meeting on 12 February 2020. On the basis of your advice that the Civil Aviation Safety Authority is progressing amendments to Part 61 of the Civil Aviation Safety Regulations 1998 with a view to completing the amendments by mid-2020, the committee has concluded its examination of the instrument. The committee has also resolved to withdraw the 'protective' notice of motion to disallow the instrument. The committee will continue to monitor the implementation of this undertaking.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



13 February 2020

The Hon David Coleman MP
Minister for Immigration, Citizenship, Migration Services and Multicultural Affairs
Parliament House
Canberra ACT 2600

Via email: David.Coleman.MP@aph.gov.au

CC: dlo.immi@homeaffairs.gov.au

Dear Minister,

**Migration Amendment (Subclass 600 and 870 Visas) Regulations 2019
[F2019L01653]**

Thank you for your letter of 12 December 2019 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument. The committee considered your advice at its private meeting on 12 February 2020.

The committee welcomes your advice that the instrument extends access to merits review to applicants for a Subclass 870 (Sponsored Parent (Temporary)) visa who were outside Australia at the time they applied for the visa, and who have a parent sponsor at the time their application for the visa was refused. On the basis of your advice the committee has concluded its examination of the instrument.

Thank you for your proactive and constructive engagement with the committee regarding this matter.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation