



18 February 2021

The Hon Jonathon Duniam MP
Assistant Minister for Forestry and Fisheries
Parliament House
CANBERRA ACT 2600

Via email: Jonathon.Duniam.MP@aph.gov.au

CC: DLO-Duniam@agriculture.gov.au

Dear Assistant Minister,

Fishing Levy Amendment (2020-2021 Levy Amounts) Regulations 2020 [F2020L01542]

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.

***Levying of taxation in delegated legislation
Matters of interest to the Senate***

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 enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, 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.

The instrument is made under the *Fishing Levy Act 1991* and amends the Fishing Levy Regulations 2018 to set the amounts of levy that are payable for Commonwealth fishing concessions for the 2020-21 financial year. The explanatory statement to the instrument states that these levies are set based on the cost recovered budget for 2020-21.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In this instance, it does not appear there is a cap on the face of the Act as to the amount of tax that may be imposed, which compounds the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved draw these instruments to the attention of the Senate in its *Delegated*

Legislation Monitor 3 of 2021. However, the committee is not seeking any further information or advice from you in relation to this particular instrument.

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*.

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



18 February 2021

The Hon Christian Porter MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Via email: Christian.Porter.MP@aph.gov.au
CC: attorney@ag.gov.au; DLO@ag.gov.au

Dear Attorney-General,

Law Enforcement Integrity Commissioner Amendment (Law Enforcement Agencies) Regulations 2020 [F2020L01506]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against 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 in relation to 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).

The instrument amends the Law Enforcement Integrity Commissioner Regulations 2017 to expand the definition of 'law enforcement agency' for the purpose of section 5 of the *Law Enforcement Integrity Commissioner Act 2006*. This has the effect of expanding the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to the Australian Competition and Consumer Commission, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission and the Australian Taxation Office. This enables the Integrity Commissioner to exercise their powers and functions in relation to these agencies and their head, staff members and secondees. The explanatory statement to the instrument explains that this may include certain investigative powers.

The committee generally considers that significant matters, such as significantly expanding the jurisdiction of a Commonwealth integrity body and broadening the application of its investigative powers, are more appropriately enacted via primary legislation. Where significant matters are nevertheless left to delegated legislation, the committee would expect a sound justification for the use of delegated legislation to be provided in the explanatory statement. In this instance, the committee notes that the explanatory statement to the instrument does not provide any information as to why it is considered necessary and appropriate to leave these significant matters to delegated legislation.

In light of the above, the committee requests your advice as to why it is considered necessary and appropriate to significantly expand the jurisdiction of the Australian Commission for Law Enforcement Integrity to four additional Commonwealth government agencies via delegated, rather than primary, legislation.

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. Noting that the 15th sitting day after the instrument was tabled in the Senate is 23 February 2021, the committee has resolved to give a notice of a motion to disallow the instrument on that day 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 **4 March 2021**.

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



18 February 2021

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: minister.littleproud@agriculture.gov.au; DLO-MO@agriculture.gov.au

Dear Minister,

Primary Industries (Customs) Charges Amendment (Dairy Cattle) Regulations 2020 [F2020L01530]

Primary Industries (Customs) Charges Amendment (Farmed Prawns and Macadamias) Regulations 2020 [F2020L01539]

Primary Industries (Excise) Levies Amendment (Dried Fruits, Farmed Prawns, Forest Growers and Macadamias) Regulations 2020 [F2020L01540]

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 instruments.

Levy of taxation in delegated legislation

Matters of interest to the Senate

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 enacted via primary legislation rather than delegated legislation). This includes whether an instrument imposes a tax or levy. In addition, 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.

The instruments are made under *Primary Industries (Customs) Charges Act 1999* and the *Primary Industries (Excise) Levies Act 1999*. The instruments amend the Primary Industries (Customs) Charges Regulations 2000 and the Primary Industries (Excise) Levies Regulations 1999 to set certain levies and charges in relation to agricultural products.

The committee considers that one of the most fundamental functions of the Parliament is to levy taxation. In this regard, the committee's consistent scrutiny view is that it is for the Parliament, rather than makers of delegated legislation, to set a rate of tax. In this instance, it does not appear there is a cap on the face of the Acts as to the amount of tax that may be imposed, which compounds

the committee's scrutiny concerns in relation to this tax due to the limited parliamentary oversight afforded to it.

As the levying of taxation in delegated legislation is a systemic technical scrutiny matter, the committee has resolved draw these instruments to the attention of the Senate in its *Delegated Legislation Monitor 3 of 2021*. However, the committee is not seeking any further information or advice from you in relation to these particular instruments.

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*.

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



18 February 2021

The Hon Josh Frydenberg MP
Treasurer
Parliament House
CANBERRA ACT 2600

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

CC: tsrdlos@treasury.gov.au; committeescrutiny@treasury.gov.au
chris.reside@treasury.gov.au

Dear Treasurer,

**Taxation Administration (Remedial Power – Seasonal Labour Mobility Program)
Determination 2020 [F2020L01474]**

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all disallowable legislative instruments against 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 in relation to this matter.

Modification of primary legislation

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).

The instrument provides that foreign resident employees of Approved Employers under the Seasonal Labour Mobility Program will continue to be taxed by application of a final withholding tax rate of 15 per cent, and will not have to lodge an income tax return unless the employee earns another Australian sourced income. To do this, sections 5 and 6 of the instrument modify the operation of paragraph 840-905(b)(ii) and paragraph 12-319A(b)(ii) in Schedule 1 to the *Income Tax Assessment Act 1997*.

Provisions that modify the operation of primary legislation may limit parliamentary oversight, and may subvert the appropriate relationship between Parliament and the executive. The committee considers that such measures should ordinarily be included in primary legislation, unless a sound justification for the use of delegated legislation is provided.

In this instance, the explanatory statement explains that, had the circumstances and policy intent of the instrument been considered when the primary Act was drafted then the law would have been drafted differently. The committee considers that this explanation indicates it would be more appropriate to amend the primary legislation to provide for the intended policy change, rather than leaving these matters to delegated legislation.

In light of the above, the committee requests your advice as to whether you intend to move amendments to the *Income Tax Assessment Act 1997* to provide for this change in tax policy on the face of the primary legislation 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. Noting that the 15th sitting day after the instrument was tabled in the Senate is 22 February 2021, the committee has resolved to give a notice of a motion to disallow the instrument on that day 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 **4 March 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



18 February 2021

The Hon Justice William Alstergren
Chief Justice, Family Court of Australia
Chief Judge, Federal Circuit Court of Australia
GPO Box 9991
MELBOURNE VIC 3001

Via email: Associate.ChiefJudgeAlstergren@federalcircuitcourt.gov.au
CC: The Hon Christian Porter MP, Attorney-General
attorney@ag.gov.au; DLO@ag.gov.au

Dear Chief Justice,

Family Law Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020 [F2020L01361]

Federal Circuit Court Amendment (Notice of Child Abuse, Family Violence or Risk) Rules 2020 [F2020L01362]

Thank you for your letter of 12 February 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instruments. The committee considered your letter at a private meeting on 17 February 2021.

On the basis of the advice set out in your letter, the committee has concluded its examination of the instruments in relation to the retrospective effect matter.

In relation to the matter of compliance with the requirements of the *Human Rights (Parliamentary Scrutiny) Act 2011*, the committee acknowledges your advice that the courts are unable to provide a considered response within the timeframe outlined by the committee and that an answer will be provided in due course. The committee takes this opportunity to thank you for your ongoing consideration of this matter.

As advised in my letter of 4 February 2021, the committee gave notices of motion to disallow the instruments on 15 February 2021. This is a precautionary measure to allow additional time for the committee to consider information received in relation to the matters set out in my original letter. Based on the current Senate sitting calendar, the giving of these notices of motion to disallow would allow the committee to finalise its consideration of these instruments by the sitting week commencing 11 May 2021 at the latest.

However, in the interests of finalising the committee's consideration of these instruments as quickly as possible, the committee would appreciate receiving further advice in relation to the matter of compliance with the requirements of the *Human Rights (Parliamentary Scrutiny) Act 2011* by 11 March 2021, although please contact the committee's secretariat to discuss this timeframe if required.

Once the committee has satisfactorily concluded its consideration of both matters raised in relation to these instruments, the committee will be in a position to give notice of its intention to withdraw the disallowance notices.

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



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**Senate Standing Committee for the
Scrutiny of Delegated Legislation**

Parliament House, Canberra ACT 2600
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18 February 2021

The Hon Christian Porter MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Via email: Christian.Porter.MP@aph.gov.au
CC: attorney@ag.gov.au; DLO@ag.gov.au

Dear Attorney-General,

Legislation (Deferral of Sunsetting—Telecommunications Universal Service Obligation (Standard Telephone Service—Requirements and Circumstances) Determination) Certificate 2020 [F2020L01301]

Thank you for your response of 4 February 2021 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 17 February 2021. On the basis of your advice that you are satisfied that the requirements of subparagraph 51(1)(b)(i) of the *Legislation Act 2003* are met, and the further information provided on consultation, the committee has concluded its examination of the instrument.

In light of this, the committee has resolved to withdraw the disallowance notice in place on the instrument.

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



5 February 2021

The Hon Darren Chester MP
Minister for Veterans' Affairs
Parliament House
CANBERRA ACT 2600

Via email: Darren.Chester.MP@aph.gov.au

CC: minister@dva.gov.au; legislation@dva.gov.au

Dear Minister,

Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments) Determination 2020 [F2020L01028]

Thank you for your response of 27 January 2021 to the Senate Standing Committee for the Scrutiny of Delegated Legislation in relation to the above instrument. The committee has considered your response and has resolved to seek your further urgent advice about the issues outlined below.

Availability of independent merits review

The committee thanks you for your further advice in relation to the availability of independent merits review of decisions made by the Repatriation Commission and the Military Rehabilitation and Compensation Commission (the Commissions) to accept financial responsibility for a Rehabilitation in the Home program under the Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments) Determination 2020 (the instrument).

The committee considers that as there is some element of discretion in accepting financial liability for clients to receive Rehabilitation in the Home treatment such decisions should be subject to independent merits review.

The committee notes your advice that delegates of the Commissions will informally review the eligibility of clients that provide new evidence to support new decisions under the Treatment Principles. The committee considers that this advice supports the committee's view that the decisions made under the instrument are of a discretionary nature and that independent merits review is therefore necessary and appropriate.

Decisions by the Repatriation Commission

In relation to merits review of these decisions by the Repatriation Commission, you advised that the *Veterans' Entitlements Act 1986* (the VEA) does not authorise independent merits review. You provided this advice on the basis that the VEA does not expressly provide for independent merits review of these decisions and that therefore it would be inconsistent with the VEA for such review to be provided for by the instrument. While noting this advice, the committee does not consider that the lack of an express power in the VEA to provide for independent merits review of these decisions means that it would be inconsistent with the VEA for merits review to be provided.

The committee draws your attention to its correspondence with the Minister for Aged Care and Senior Australians in relation to the Continence Aids Payment Scheme 2020 [F2020L00758] in which a similar issue arose about the provision of merits review under the *National Health Act 1953* (correspondence attached). The committee in that instance noted that the lack of an express power in the *National Health Act 1953* providing for independent merits review of specific decisions made under that instrument did not mean that the instrument could not provide for such review. After corresponding with the committee, the Minister undertook to amend both the instrument and the *National Health Act 1953* to clarify the availability of this review.

In light of the above, the committee requests that you undertake to amend the instrument to provide for independent merits review of decisions made by the Repatriation Commission to accept financial responsibility for a Rehabilitation in the Home program. If you remain of the view that this would be inconsistent with the provisions of the *Veterans' Entitlements Act 1986*, the committee requests that you undertake to move amendments to the Act to clarify that the Treatment Principles can provide for independent merits review of these decisions.

Decisions by the Military Rehabilitation and Compensation Commission

In relation to merits review of these decisions by the Military Rehabilitation and Compensation Commission, you advised that merits review of determinations made under Chapter 6 of Part 3 are excluded by the *Military Rehabilitation and Compensation Act 2004* (the MRCA) itself. The committee acknowledges this advice that the MRCA expressly excludes independent merits review of these decisions. It remains open, however, to amend the MRCA to ensure that merits review can be made available for these decisions, which the committee considers necessary and appropriate in this instance.

The committee draws your attention to a similar issue which arose in relation to the Taxation Administration (Private Ancillary Fund) Guidelines 2019 [F2019L01227] (the Taxation instrument), about which the committee raised concerns in relation to independent merits review with the Assistant Minister for Finance, Charities and Electoral Matters (correspondence attached). The Assistant Minister advised that Part IVC of the *Taxation Administration Act 1953* only provided for merits review for decisions made under taxation law (an Act) or regulations made under such an Act, and that as such, the Act excluded merits review for decisions made under subordinate instruments including the Taxation instrument. However, in responding to the committee's ongoing concerns the Assistant Minister has amended the *Taxation Administration Act 1953* to enable merits review of administrative decisions of the Commissioner of Taxation made under the Taxation instrument.

In light of the above, the committee requests that you undertake to move amendments to the *Military Rehabilitation and Compensation Act 2004* to ensure that independent merits review can be made available for decisions made by the Military Rehabilitation and Compensation Commission to accept financial responsibility for a Rehabilitation in the Home program.

Your response to the committee's request for further advice in relation to the instrument will inform the committee's consideration of whether to withdraw the notices of motion to disallow these instruments.

To facilitate the committee's timely consideration of these matters and noting that the disallowance period for the instrument expires on 22 February 2021, the committee would appreciate your response by **11 February 2021**.

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



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18 February 2021

The Hon Darren Chester MP
Minister for Veterans' Affairs
Parliament House
CANBERRA ACT 2600

Via email: Darren.Chester.MP@aph.gov.au
CC: minister@dva.gov.au; legislation@dva.gov.au

Dear Minister,

**Veterans' Affairs (Treatment Principles – Rehabilitation in the Home and Other Amendments)
Determination 2020 [F2020L01028]**

Thank you for your response of 15 February 2021 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 17 February 2021. On the basis of your advice that the instrument was revoked on the 12 February 2021, the committee has concluded its examination of the instrument. The committee appreciates your ongoing engagement in relation to the scrutiny concerns arising from this and future related instruments.

In light of this, the committee has resolved to withdraw the disallowance notice in place on the instrument.

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



18 February 2021

Senator Slade Brockman
Chair
Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

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

cc: Senator the Hon Simon Birmingham, Minister for Finance,
financeminister@finance.gov.au

The Hon Karen Andrews MP, Minister for Industry, Science and Technology,
industrydlo@industry.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.

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 to the Senate.

The instruments listed in **Attachment A**, in combination with their enabling Acts, authorise the Commonwealth to spend public money 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 listed in **Attachment A** 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 that (based on the current sitting pattern) the time for lodging a disallowance notice in the Senate expires on 22 February 2021.

Further details about the instruments are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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

Attachment A

Instrument	Grant/Program	Amount	Description
Industry Research and Development (Boosting Female Founders Initiative Program) Instrument 2020 [F2020L01467]	Boosting Female Founders Initiative Program	\$54 million over five years from 2020–21 to 2024–25	Funding will be provided through a combination of co-funded grants to women-owned and led startup businesses to undertake projects that scale the business, and procurements which provide women entrepreneurs with access to expert mentoring and advice. The Program supports women entrepreneurs to overcome disadvantages they face in getting access to finance and support to grow their startups.
Industry Research and Development (Cyber Security Business Connect and Protect Program) Instrument 2020 [F2020L01438]	Cyber Security Business Connect and Protect Program	\$8.3 million over two years from 2020-21	Funding will be provided to support projects that raise the awareness of cyber security risks among small and medium enterprises (SMEs), promote action to address these risks, and support and uplift the capability of SMEs to meet best practice in cyber security.
Industry Research and Development (Digital Readiness Assessment Tool Program) Instrument 2020 [F2020L01439]	Digital Readiness Assessment Tool Program	\$2.4 million in 2020-21	Funding will be provided to develop and operate an online tool that will help businesses self-assess their digital maturity and provide them with direction and pathways to existing government programs and resources to pursue their digital transformation. The purpose of the Program is to accelerate the adoption of digital technologies by Australian businesses and drive long-term growth and business resilience by providing businesses with information about how they compare against their peers or frontier firms, as well as practical pathways for businesses to improve their digital maturity to reach their business goals.
Industry Research and Development (Digital Skills Finder Platform Program) Instrument 2020 [F2020L01463]	Digital Skills Finder Platform Program	\$2.5 million in 2020-21	Funding will be provided to Balance Internet Pty Ltd in order to enable Balance Internet to further develop and operate the Digital Skills Finder Platform (the Platform). Once fully developed, the Platform will be an online portal that aggregates links to free and paid private sector digital skills training for individuals and small and medium enterprises seeking to learn how to use software and digital tools.



18 February 2021

Senator Paul Scarr

Chair

Joint Committee on the Australian Commission for Law Enforcement Integrity

Parliament House

CANBERRA ACT 2600

via email: aclei.committee@aph.gov.au

cc: The Hon Christian Porter MP, Attorney-General, attorney@ag.gov.au

Dear Chair,

Matters of interest to the Senate—Australia Commission for Law Enforcement Integrity

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.

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 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.

Noting that the following instrument appears to contain significant policy matters relating to expansion of the jurisdiction of the Australian Commission for Law Enforcement Integrity, the committee has determined that the instrument engages standing order 23(4) and accordingly has resolved to draw it to the attention of your committee:

Instrument	Purpose	Last day to lodge disallowance notice
Law Enforcement Integrity Commissioner Amendment (Law Enforcement Agencies) Regulations 2020 [F2020L01506]	To expand the jurisdiction of the Australian Commission for Law Enforcement Integrity to include four additional Commonwealth government agencies - the Australian Competition and Consumer Commission, Australian Prudential Regulation Authority, Australian Securities and Investments Commission, and Australian Taxation Office.	23/02/2021 (please note that the Scrutiny of Delegated Legislation Committee has resolved to give a notice of motion to disallow this instrument on this date)

Should your committee decide to further examine the above instrument, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate. However, please note that the committee is also raising technical scrutiny concerns in relation to this instrument and therefore the committee has resolved to give its own protective notice of motion to disallow the instrument on 23 February 2021. The period to consider the committee's disallowance notice will expire on 23 June 2021, unless the committee withdraws the notice on an earlier date.

The committee has also drawn this instrument to the attention of the Senate Legal and Constitutional Affairs Legislation Committee.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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



18 February 2021

Senator Slade Brockman
Chair
Senate Economics Legislation Committee
Parliament House
CANBERRA ACT 2600

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

cc: The Hon Josh Frydenberg MP, Treasurer, tsrdlos@treasury.gov.au

Dear Chair,

Matters of interest to the Senate—the establishment of the JobMaker scheme in delegated legislation

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.

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 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.

Noting that the following instrument appears to contain significant policy matters relating to the establishment of the JobMaker scheme in delegated legislation, the committee has determined that the instrument engages standing order 23(4) and accordingly has resolved to draw it to the attention of your committee:

Instrument	Purpose	Last day to lodge disallowance notice
Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020 [F2020L01534]	To establish the JobMaker scheme and specify details about the scheme, including: <ul style="list-style-type: none">the start and end date of the scheme;when an employer or business is entitled to a payment;the amount and timing of a payment; andother matters relevant to the administration of the payment.	17/03/2021

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 the above instrument, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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



18 February 2021

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

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

cc: Senator the Hon Michaelia Cash, Minister for Employment, Skills, Small and
Family Business, minister.cash@jobs.gov.au

Dear Chair,

Matters of interest to the Senate—Payment Times Reporting Scheme

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.

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 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.

Noting that the following instrument appears to contain significant policy matters relating to the Payment Times Reporting Scheme, the committee has determined that the instrument engages standing order 23(4) and accordingly has resolved to draw it to the attention of your committee:

Instrument	Purpose	Last day to lodge disallowance notice
Payment Times Reporting Rules 2020 [F2020L01472]	To set out details of the Payment Times Reporting Scheme (the Scheme) as established by the <i>Payment Times Reporting Act 2020</i> . Under the Scheme, large businesses who meet the income threshold of over \$100 million in annual total income will be required to publicly report on the payment terms and practices for their small business suppliers.	22/02/2021

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 the above instrument, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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



18 February 2021

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

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

Dear Chair,

Matters of interest to the Senate—Autonomous Sanctions

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.

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 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.

Noting that the following instrument appears to contain significant policy matters relating to autonomous sanctions, the committee has determined that the instrument engages standing order 23(4) and accordingly has resolved to draw it to the attention of your committee:

Instrument	Purpose	Last day to lodge disallowance notice
Autonomous Sanctions (Designated Persons and Entities and Declared Persons—Democratic People’s Republic of Korea) Amendment (No. 1) Instrument 2020 [F2020L01529]	To amend the Autonomous Sanctions (Designated Persons and Entities – Democratic People’s Republic of Korea) List 2012 to update the information for some of the designated persons and entities. The purpose of a designation is to subject the designated person or entity to targeted financial sanctions.	15/03/2021

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 the above instrument, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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



18 February 2021

Senator the Hon Sarah Henderson
Chair
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

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

cc: The Hon Christian Porter MP, Attorney-General, attorney@ag.gov.au
The Hon Alex Hawke MP, Minister for Immigration, Citizenship, Migrant
Services and Multicultural Affairs, dlo.immi@homeaffairs.gov.au

Dear Chair,

Matters of interest to the Senate

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.

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 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.

Noting that the following instruments appear to contain significant policy matters, 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:

Instrument	Purpose	Last day to lodge disallowance notice
Law Enforcement Integrity Commissioner Amendment (Law Enforcement Agencies) Regulations 2020 [F2020L01506]	To expand the jurisdiction of the Australian Commission for Law Enforcement Integrity to include four additional Commonwealth government agencies - the Australian Competition and Consumer Commission, Australian Prudential Regulation Authority, Australian Securities and Investments Commission, and Australian Taxation Office.	23/02/2021

Instrument	Purpose	Last day to lodge disallowance notice
Migration Amendment (Biosecurity Contraventions) Regulations 2020 [F2020L01488]	To prescribe additional visa subclasses that may be cancelled if the visa holder is in Australia, and has not been immigration cleared, and a decision-maker (a delegate of the minister) reasonably believes that the visa holder has contravened subsection 126(2), 128(2), 532(1) or 533(1) of the <i>Biosecurity Act 2015</i> . The regulations give decision-makers a discretion to cancel temporary work visas and student visas at the point of arrival in cases where there has been an attempt to deceive a Biosecurity officer about the presence of prohibited items in the person's luggage or possessions.	23/02/2021

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 above instruments, I note that the table above identifies the last day (based on the current sitting pattern) for lodging a disallowance notice in the Senate.

Further details about the instruments are published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

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