

The Senate

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Committee on
Regulations and
Ordinances

Delegated legislation monitor

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Contents

Membership of committee	iii
Introduction	
Chapter 1 – New and continuing matters	ix
Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries-1.1) Methodology Determination 2013 [F2013L00856]	443
Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]	444
Marine Order 63 (MASTREP) 2013 [F2013L00837]	444
Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) Amendment List 2013 [F2013L00884]	445
Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013 [Select Legislative Instrument No. 97, 2013] [F2013L00900]	446
Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013 [Select Legislative Instrument No. 95, 2013] [F2013L00878]	447
National Portrait Gallery of Australia Regulation 2013 [Select Legislative Instrument No. 99, 2013] [F2013L00914]	447
High Court Amendment (Vexatious Proceedings and Other Matters) Rules 2013 [Select Legislative Instrument No. 107, 2013] [F2013L00924]	448
Environment Protection and Biodiversity Conservation Amendment (Fees for Wildlife Trade Permits) Regulation 2013 [Select Legislative Instrument No. 122, 2013] [F2013L01007]	449
Migration Agents Regulations 1998 - Specification under regulations 9F and 9J - Fees for Performing Assessments - June 2013 [F2013L00982]	449
Public Service Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 110, 2013] [F2013L01002]	450
Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2013 (No. 2) [F2013L00852]	450
CASA ADCX 010/13 – Revocation of Airworthiness Directives [F2013L00847]	451
ASIC Class Order [CO 13/632] [F2013L00853]	451
Defence Determination 2013/22, Cadet forces allowance – amendment;	451
Defence Determination 2013/23, Cadet forces allowance – amendment;	
Defence Determination 2013/24, Partial rent allowance and leave travel – amendment; and	
Defence Determination 2013/25, Post indexes - amendment	
Dental Benefits Rules 2013 [F2013L00845]	451
National Health Act 1953 - Amendment determination under paragraph 98C(1)(b) (No. PB 33 of 2013) [F2013L00840]	452
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 6) (No. PB 29 of 2013) [F2013L00843]	452

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 1) [F2013L00832] and eight other instruments	452
Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]	453
PCEHR (Assisted Registration) Amendment Rules 2013 (No. 1) [F2013L00838]	453
Remuneration Tribunal Determination 2013/06 – Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices [F2013L00849]	453
Schools Assistance Act 2008 – Determination of Classes of Persons Who Are Not Overseas Students 2013 [F2013L00860]	454
Therapeutic Goods (Manufacturing Principles) Determination No. 1 of 2013 [F2013L00855]	454
Automotive Transformation Scheme Amendment Order 2013 (No. 1) [F2013L00904]	454
CASA 93/13 - Direction - number of cabin attendants [F2013L00886]; CASA 94/13 - Direction - number of cabin attendants - Jetstar Airways [F2013L00882]; and CASA EX61/13 - Exemption – from standard take-off and landing minima – Virgin Australia International Airlines Pty Ltd [F2013L00877]	455
Migration (United Nations Security Council Resolutions) Regulations 2007 - Specification under regulation 4 definition of 'resolution' - Specification of United Nations Security Council Resolutions - May 2013 [F2013L00907]	455
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 7) (No. PB 35 of 2013) [F2013L00922]	456
Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers - 800 MHz Band) Amendment 2013 (No. 1) [F2013L00861]	456
Part 42 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L00929]	456
Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2013 (No. 1) [F2013L00930]	457
Defence Determination 2013/26, Salary non-reduction – amendment; Defence Determination 2013/27, Chaplains – amendment; and Defence Determination 2013/28, Salary non-reduction and rent ceilings – amendment	457
Defence Home Ownership Assistance Scheme Amendment (Average House Price and Median Interest Rate) Determination 2013 [F2013L01012]	457
National Health Security (SSBA Standards) Determination 2013 [F2013L01065]	458
Social Security (Special Disability Trust - Trust Deed, Reporting and Audit Requirements) (FaHCSIA) Determination 2013 [F2013L01026]	458
Chapter 2 – Concluded matters	
Migration Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 33, 2013] [F2013L00490]	459
Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No. 1) [F2013L00686]	460
Public Lending Right Scheme 1997 (Modification No. 1 of 2013) [F2013L00682]	460
Appendix 1 – Index of instruments scrutinised by the committee	463
Appendix 2 – Guideline on consultation	475

Delegated legislation monitor

Introduction

The *Delegated legislation monitor* (the monitor) is the regular report of the Senate Standing Committee on Regulations and Ordinances (the committee). The monitor is published at the conclusion of each sitting week of the Parliament, and provides an overview of the committee's scrutiny of instruments of delegated legislation for the preceding period.¹

The committee's terms of reference

Senate Standing Order 23 contains a general statement of the committee's terms of reference:

- (1) A Standing Committee on Regulations and Ordinances shall be appointed at the commencement of each Parliament.
- (2) All regulations, ordinances and other instruments made under the authority of Acts of the Parliament, which are subject to disallowance or disapproval by the Senate and which are of a legislative character, shall stand referred to the committee for consideration and, if necessary, report.

The committee shall scrutinise each instrument to ensure:

- (a) that it is in accordance with the statute;
- (b) that it does not trespass unduly on personal rights and liberties;
- (c) that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal;
and
- (d) that it does not contain matter more appropriate for parliamentary enactment.

Work of the committee

The committee scrutinises all disallowable instruments of delegated legislation, such as regulations and ordinances, to ensure their compliance with non-partisan principles of personal rights and parliamentary propriety.

The committee's longstanding practice is to interpret its scrutiny principles broadly, but as relating primarily to technical legislative scrutiny. The committee therefore does not generally examine or consider the policy merits of delegated legislation. In cases where an instrument is considered not to comply with the committee's scrutiny

¹ Prior to 2013, the monitor provided only statistical and technical information on instruments scrutinised by the committee in a given period or year. This information is now most easily accessed via the authoritative Federal Register of Legislative Instruments (FRLI), at www.comlaw.gov.au.

principles, the committee's usual approach is to correspond with the responsible minister or instrument-maker seeking further explanation or clarification of the matter at issue, or seeking an undertaking for specific action to address the committee's concern.

The committee's work is supported by processes for the registration, tabling and disallowance of legislative instruments, which are established by the *Legislative Instruments Act 2003*.²

Structure of the report

The report is comprised of the following parts:

- Chapter 1, 'New and continuing matters', sets out new and continuing matters about which the committee has agreed to write to the relevant minister or instrument-maker seeking further information or appropriate undertakings;
- Chapter 2, 'Concluded matters', sets out any previous matters which have been concluded to the satisfaction of the committee, including by the giving of an undertaking to review, amend or remake a given instrument at a future date; related (non-confidential) correspondence is included at Appendix 3;
- Appendix 1 provides an index listing all instruments scrutinised in the period covered by the report;
- Appendix 2 contains the committee's guideline on addressing the consultation requirements of the *Legislative Instruments Act 2003*.

Acknowledgement

The committee wishes to acknowledge the cooperation of the ministers, instrument-makers and departments who assisted the committee with its consideration of the issues raised in this report.

Senator Mark Furner

Chair

2 For further information on the disallowance process and the work of the committee see *Odger's Australian Senate Practice*, 13th Edition (2012), Chapter 15.

Chapter 1

New and continuing matters

This chapter lists new matters identified by the committee at its meeting on **27 June 2013**, and continuing matters in relation to which the committee has received recent correspondence. The committee will write to relevant ministers or instrument makers in relation to substantive matters seeking further information or an appropriate undertaking within the disallowance period.

Matters which the committee draws to the attention of the relevant minister or instrument maker are raised on an advice-only basis and do not require a response.

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries-1.1) Methodology Determination 2013 [F2013L00856]

Purpose	Sets out rules for implementing and monitoring an agricultural emissions avoidance project under the Carbon Farming Initiative to reduce the methane generated from manure lagoons in intensive piggeries
Last day to disallow¹	9 September 2013
Authorising legislation	<i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>
Department	Industry, Innovation, Climate Change, Science, Research and Tertiary Education

ISSUE:

Uncertain operation

This instrument 'provides updates' to the Carbon Farming (Destruction of Methane Generated from Manure in Piggeries) Methodology Determination 2012 [F2012L01501], referred to in the explanatory statement (ES) for the instrument as 'the original determination'. However, the instrument does not expressly revoke the original determination and the original determination does not contain a ceasing mechanism. That being so, both determinations appear to be in force and both are listed on the Federal Register of Legislative Instruments (FRLI) as 'current' from the same commencement date (1 July 2010). It is therefore unclear whether and how the

1 'Last day to disallow' refers to the last day on which notice may be given of a motion for disallowance in the Senate. In the event that the disallowance period is interrupted for the election of the 44th Parliament, as is expected to occur over August-September 2013, the counting of the 15-day disallowance period will continue from the first day of sitting of the new Parliament.

two instruments are intended to operate together. **The committee therefore requests further information from the minister.**

Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]

Purpose	Prescribes matters necessary to give effect to obligations under the International Labour Organization's Maritime Labour Convention 2006. The order also combines subject matter formerly in Marine Orders Part 10 (Medical first aid on ships), Part 11 (Substandard Ships), Part 14 (Accommodation) and Part 53 (Employment of Crews)
Last day to disallow	9 September 2013
Authorising legislation	<i>Navigation Act 1912</i>
Department	Infrastructure and Transport

ISSUE:

Insufficient information regarding strict liability offences

This order prescribes a number of matters necessary to give effect to obligations under the International Labour Organization's Maritime Labour Convention 2006, which Australia ratified on 21 December 2011. These include a number of strict liability offences relating to various matters such as prohibiting the engagement of a person under 16 years to work on a vessel and (subsection 42(2)) and a requirement to make certain records accessible by specified persons (subsection 50(2)). However, no explanation is provided, either in the ES or the statement of compatibility with human rights, regarding the offences. The committee's usual expectation in cases where an instrument makes provision for offences, particularly strict liability offences, is that the ES provide a full justification for the need, scope and framing of those offences. **The committee therefore requests further information from the minister.**

Marine Order 63 (MASTREP) 2013 [F2013L00837]

Purpose	Establishes a system for the reporting of movement of vessels that are in the MASTREP area
Last day to disallow	9 September 2013
Authorising legislation	<i>Navigation Act 1912</i>
Department	Infrastructure and Transport

ISSUE:

Insufficient information regarding strict liability offences

Subsection 6(2) of this instrument creates a new strict liability offence for failing to provide position reports. However, no explanation is provided, either in the ES or the

statement of compatibility with human rights, regarding the introduction of the offence. The committee's usual expectation in cases where an instrument makes provision for offences, particularly strict liability offences, is that the ES provide a full justification for the need, scope and framing of those offences. **The committee therefore requests further information from the minister.**

Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) Amendment List 2013 [F2013L00884]

Purpose	Amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) List 2012
Last day to disallow	9 September 2013
Authorising legislation	Autonomous Sanctions Regulations 2011
Department	Foreign Affairs and Trade

ISSUES:

(a) Drafting

This instrument states that it amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) List 2012 (the principal instrument). Section 3 of the instrument provides that Schedule 1 amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) List 2012. However, Schedule 1 of the instrument contains no amendment instruction (such as 'substitute' or 'omit Schedule 1, insert...'). While it appears that Schedule 1 of this instrument is intended to replace Schedule 1 of the principal instrument, there is nothing to indicate that this is the case. **The committee therefore draws this issue to the attention of the minister.**

(b) Insufficient description regarding consultation

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that:

The current legal framework for the imposition of autonomous sanctions by Australia, of which the Regulations and the Syria Amendment List are part, has been the subject of extensive consultation with governmental and non-governmental stakeholders since May 2010.

While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or

general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003*. **The committee therefore requests further information from the minister and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013 [Select Legislative Instrument No. 97, 2013] [F2013L00900]

Purpose	Prescribes the kinds of community groups whose vessels will not be considered domestic commercial vessels; prescribes vessels that are or are not domestic commercial vessels; and other matters relating to domestic commercial vessels
Last day to disallow	9 September 2013
Authorising legislation	<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>
Department	Infrastructure and Transport

ISSUE:

Incorporation of extrinsic material

This instrument prescribes certain matters for the implementation of the national law for the regulation of domestic commercial vessel safety. It incorporates by reference two instruments—the National Standard for Commercial Vessels and the National Standard for the Administration of Marine Safety—by setting certain requirements with reference to these standards. The *Legislative Instruments Act 2003* provides that extrinsic material may be incorporated into instruments of delegated legislation. However, non-legislative material can generally be incorporated only as in force or existing at a particular date (as opposed to being incorporated as in force or existing 'from time to time').² In this case, neither the instrument nor the ES provides sufficient detail to determine the basis on which the standards are intended to be incorporated into the instrument. **The committee therefore requests further information from the minister.**

2 See section 14, *Legislative Instruments Act 2003*.

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013 [Select Legislative Instrument No. 95, 2013] [F2013L00878]

Purpose	Amends the Migration Regulations 1994 to further implement recommendation 14 in the Report of the Expert Panel on Asylum Seekers
Last day to disallow	9 September 2013
Authorising legislation	<i>Migration Act 1958</i>
Department	Immigration and Citizenship

ISSUE:

No information regarding consultation

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES accompanying the instrument contains no reference to consultation. **The committee therefore requests further information from the minister and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

National Portrait Gallery of Australia Regulation 2013 [Select Legislative Instrument No. 99, 2013] [F2013L00914]

Purpose	Supports the <i>National Portrait Gallery of Australia Act 2012</i> to establish the National Portrait Gallery of Australia as a body corporate and a Commonwealth statutory authority from 1 July 2013
Last day to disallow	9 September 2013
Authorising legislation	<i>National Portrait Gallery of Australia Act 2012</i>
Department	Regional Australia, Local Government, Arts and Sport

ISSUE:

Insufficient description regarding consultation

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried

out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that:

Extensive consultation was undertaken during the drafting of the National Portrait Gallery of Australia Act 2012. Subsequent consultation was also undertaken with the Portrait Gallery and central agencies in regard to the National Portrait Gallery of Australia Regulation 2013.

While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003*. **The committee therefore requests further information from the minister and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

High Court Amendment (Vexatious Proceedings and Other Matters) Rules 2013 [Select Legislative Instrument No. 107, 2013] [F2013L00924]

Purpose	These rules bring the High Court Rules into conformity with the new Part XAB of the <i>Judiciary Act 1903</i>
Last day to disallow	9 September 2013
Authorising legislation	<i>Judiciary Act 1903</i> ; <i>Commonwealth Electoral Act 1918</i> ; <i>Nauru (High Court Appeals) Act 1976</i> ; and <i>High Court of Australia Act 1979</i>
Department	Attorney-General's

ISSUE:

Insufficient description regarding consultation

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that consultation has been undertaken with 'relevant professional organisations'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003*. **The committee therefore requests further information from the Chief Justice and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

Environment Protection and Biodiversity Conservation Amendment (Fees for Wildlife Trade Permits) Regulation 2013 [Select Legislative Instrument No. 122, 2013] [F2013L01007]

Purpose	Amends the Environment Protection and Biodiversity Conservation Regulations 2000 to update fees for wildlife trade permits
Last day to disallow	11 September 2013
Authorising legislation	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
Department	Sustainability, Environment, Water, Population and Communities

ISSUE:

Unclear basis for determining fees

Various provisions of this instrument increase fees for wildlife trade permits. While there is reference to analysis set out in a 'Wildlife Trade Permits Cost Recovery Impact Statement July 2013-June 2018', the ES does not itself explain the basis on which the new fees have been calculated or set. The committee's usual expectation in cases where an instrument of delegated legislation carries financial implications via the imposition or adjustment of a charge, fee, levy or scale of costs (as the case may be) is that the relevant ES makes clear the basis on which the imposition or change has been calculated. **The committee therefore requests further information from the minister.**

Migration Agents Regulations 1998 - Specification under regulations 9F and 9J - Fees for Performing Assessments - June 2013 [F2013L00982]

Purpose	Specifies the fees that apply to providers of continuing professional development (CPD) activities or persons who apply to have a CPD activity approved
Last day to disallow	11 September 2013
Authorising legislation	Migration Agents Regulations 1998
Department	Immigration and Citizenship

ISSUE:

Unclear basis for determining fees

This instrument sets various fees that may be charged for the performance of assessments under certain provisions of the Migration Agents Regulations 1998. However, the ES gives no indication as to the basis on which the new fees have been calculated or set. The committee's usual expectation in cases where an instrument of delegated legislation carries financial implications via the imposition or adjustment of a charge, fee, levy or scale of costs (as the case may be) is that the relevant ES makes

clear the basis on which the imposition or change has been calculated. **The committee therefore requests further information from the minister.**

Public Service Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 110, 2013] [F2013L01002]

Purpose	Amends the Public Service Amendment Regulation 2013 (No. 1) to prescribe regulation 6.1A for certain purposes and to provide transitional regulations clarifying the operation of certain Merit Protection Commissioner functions
Last day to disallow	11 September 2013
Authorising legislation	<i>Public Service Act 1999</i> ; and <i>Public Service Amendment Act 2013</i>
Department	Prime Minister and Cabinet

ISSUE:

Whether any person disadvantaged by administrative error

The instrument makes various amendments to the principal regulations, including the insertion of a reference to regulation 6.1 in a number of regulations, which was incorrectly omitted from earlier amendments. The effect of this is to provide certain immunities and protections for information obtained in connection with an inquiry into alleged misconduct of a statutory office holder. The committee's usual approach where an instrument corrects an administrative error, as in this case, is that the ES address the question of whether any person was disadvantaged by the error and, if so, whether and what steps have been taken to address that disadvantage. **The committee therefore requests further information from the minister.**

Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2013 (No. 2) [F2013L00852]

Purpose	Amends the Broadcasting Services (Primary Commercial Television Broadcasting Service) Declaration 2010 in order to declare particular SDTV multi-channelled commercial television broadcasting services to be the primary commercial television broadcasting services for commercial television broadcasting licensees in particular licence areas
Last day to disallow	9 September 2013
Authorising legislation	<i>Broadcasting Services Act 1992</i>
Department	Broadcasting, Communications and the Digital Economy

CASA ADCX 010/13 – Revocation of Airworthiness Directives [F2013L00847]

Purpose	Revokes six airworthiness directives
Last day to disallow	9 September 2013
Authorising legislation	Civil Aviation Safety Regulations 1998
Department	Infrastructure and Transport

ASIC Class Order [CO 13/632] [F2013L00853]

Purpose	Amends ASIC Class Order [CO 12/749] to extend the transitional period provided to responsible entities of hedge funds from 22 June 2013 to 1 February 2014
Last day to disallow	9 September 2013
Authorising legislation	<i>Corporations Act 2001</i>
Department	Treasury

Defence Determination 2013/22, Cadet forces allowance – amendment; Defence Determination 2013/23, Cadet forces allowance – amendment; and Defence Determination 2013/24, Partial rent allowance and leave travel – amendment; and Defence Determination 2013/25, Post indexes - amendment

Purpose	(1) Sets out revised arrangements for eligibility for cadet forces allowance; (2) clarifies the nature of the benefit provided to assist officers and instructors of cadets; (3) removes provisions for partial rental allowance, clarifies the location where a member may choose to take their pre or post deployment leave travel and corrects cross reference errors; and (4) revises post indexes for ADF members at overseas posting locations
Last day to disallow	9 September 2013
Authorising legislation	<i>Defence Act 1903</i>
Department	Defence

Dental Benefits Rules 2013 [F2013L00845]

Purpose	Establish the operational framework and service items for the Child Dental Benefits Schedule - Grow Up Smiling
Last day to disallow	9 September 2013
Authorising legislation	<i>Dental Benefits Act 2008</i>
Department	Health and Ageing

National Health Act 1953 - Amendment determination under paragraph 98C(1)(b) (No. PB 33 of 2013) [F2013L00840]

Purpose	Amends the National Health Act 1953 - Determination under paragraph 98C(1)(b) - conditions (No. PB 119 of 2008) to add three forms of the listed drug Glucose Indicator-Blood forms test strips
Last day to disallow	9 September 2013
Authorising legislation	<i>National Health Act 1953</i>
Department	Health and Ageing

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 6) (No. PB 29 of 2013) [F2013L00843]

Purpose	Amends the National Health (Listing of Pharmaceutical Benefits) Instrument 2012 (No. PB 71 of 2012) to provide for additions, deletions and changes to drugs, forms, brands, responsible person codes, maximum quantities, the circumstances for prescribing various pharmaceutical benefits (including authority requirements), determined quantities, pack quantities and section 100 only status
Last day to disallow	9 September 2013
Authorising legislation	<i>National Health Act 1953</i>
Department	Health and Ageing

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 1) [F2013L00832]; and eight other instruments³

Purpose	These instruments revoke previous determinations and recognise a number of organisations as a Representative Aboriginal/Torres Strait Islander Body
Last day to disallow	9 September 2013
Authorising legislation	<i>Native Title Act 1993</i>
Department	Families, Housing, Community Services and Indigenous Affairs

3 Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 2) [F2013L00833]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 3) [F2013L00831]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 4) [F2013L00830]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 5) [F2013L00828]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 6) [F2013L00829]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 7) [F2013L00834]; Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 8) [F2013L00835]; and Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 9) [F2013L00836]

Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]

Purpose	Prescribes matters necessary to give effect to obligations under the International Labour Organization's Maritime Labour Convention 2006. The order also combines subject matter formerly in Marine Orders Part 10 (Medical first aid on ships), Part 11 (Substandard Ships), Part 14 (Accommodation) and Part 53 (Employment of Crews)
Last day to disallow	9 September 2013
Authorising legislation	<i>Navigation Act 2012</i>
Department	Infrastructure and Transport

PCEHR (Assisted Registration) Amendment Rules 2013 (No. 1) [F2013L00838]

Purpose	Amends the PCEHR (Assisted Registration) Rules 2012 to allow parents to apply to register newborns through assisted registration
Last day to disallow	9 September 2013
Authorising legislation	<i>Personally Controlled Electronic Health Records Act 2012</i>
Department	Health and Ageing

Remuneration Tribunal Determination 2013/06 – Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices [F2013L00849]

Purpose	Amends the Remuneration Tribunal Determination 2012/13 - Remuneration and Allowances for Holders of Part-Time Public Office and Remuneration Tribunal Determination 2012/09 - Judicial and Related Offices - Remuneration and Allowances
Last day to disallow	9 September 2013
Authorising legislation	<i>Remuneration Tribunal Act 1973</i>
Department	Prime Minister and Cabinet

Schools Assistance Act 2008 – Determination of Classes of Persons Who Are Not Overseas Students 2013 [F2013L00860]

Purpose	Determines that classes of persons specified in the attached Schedule are classes of persons who are not overseas students for the purposes of subsection 173(2) of the Act
Last day to disallow	9 September 2013
Authorising legislation	<i>Schools Assistance Act 2008</i>
Department	Education, Employment and Workplace Relations

Therapeutic Goods (Manufacturing Principles) Determination No. 1 of 2013 [F2013L00855]

Purpose	Determines principles to be observed in the manufacture of therapeutic goods for use in humans
Last day to disallow	9 September 2013
Authorising legislation	<i>Therapeutic Goods Act 1989</i>
Department	Health and Ageing

Automotive Transformation Scheme Amendment Order 2013 (No. 1) [F2013L00904]

Purpose	Amends the Automotive Transformation Scheme Order 2010 to provide a technical amendment for the calculation of the annual modulation rate over four quarters
Last day to disallow	9 September 2013
Authorising legislation	Automotive Transformation Scheme Regulations 2010
Department	Industry, Innovation, Climate Change, Science, Research and Tertiary Education

CASA 93/13 - Direction - number of cabin attendants [F2013L00886]; CASA 94/13 - Direction - number of cabin attendants - Jetstar Airways [F2013L00882]; and CASA EX61/13 - Exemption – from standard take-off and landing minima – Virgin Australia International Airlines Pty Ltd [F2013L00877]

Purpose	(1) allows Capiteq Limited (Airnorth) to operate an Australian registered Embraer 170-100 series aircraft with a maximum seating capacity of 78 passengers if there is one cabin attendant for every 50 passenger seats or part of that number; (2) allows Jetstar to operate Australian registered Airbus A321-200 and Airbus A320-200 series aircraft if there is one cabin attendant for every 50 passenger seats or part of that number; and (3) permits Virgin Australia International Airlines to use minima lower than the standard take off and landing meteorological visibility minima determined by CASA
Last day to disallow	9 September 2013
Authorising legislation	Civil Aviation Regulations 1988; and Civil Aviation Safety Regulations 1998
Department	Infrastructure and Transport

Migration (United Nations Security Council Resolutions) Regulations 2007 - Specification under regulation 4 definition of 'resolution' - Specification of United Nations Security Council Resolutions - May 2013 [F2013L00907]

Purpose	Specifies relevant United Nations Security Council resolutions that prohibit specified individuals and entities from entering Australia
Last day to disallow	9 September 2013
Authorising legislation	Migration (United Nations Security Council Resolutions) Regulations 2007
Department	Immigration and Citizenship

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 7) (No. PB 35 of 2013) [F2013L00922]

Purpose	Amends the National Health (Listing of Pharmaceutical Benefits) Instrument 2012 (No. PB 71 of 2012) to provide for additions, deletions and changes to drugs, forms, brands, responsible person codes, maximum quantities, the circumstances for prescribing various pharmaceutical benefits (including authority requirements), determined quantities, pack quantities and section 100 only status
Last day to disallow	9 September 2013
Authorising legislation	<i>National Health Act 1953</i>
Department	Health and Ageing

Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers - 800 MHz Band) Amendment 2013 (No. 1) [F2013L00861]

Purpose	Corrects typographical errors in clause (1) of Schedule 2 to the Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers—800 MHz Band) 2012
Last day to disallow	9 September 2013
Authorising legislation	<i>Radiocommunications Act 1992</i>
Department	Broadband, Communications and the Digital Economy

Part 42 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L00929]

Purpose	Amends Part 42 Manual of Standards Instrument 2011 to recognise Singapore as a country in which maintenance can be carried out on Australian aircraft
Last day to disallow	9 September 2013
Authorising legislation	Civil Aviation Safety Regulations 1998
Department	Infrastructure and Transport

Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2013 (No. 1) [F2013L00930]

Purpose	Amends the Income Tax (Effective Life of Depreciating Assets) Determination 2001 to provide taxpayers in specific industries and for specific assets with effective lives as a basis to calculate the decline in value (depreciation) of an asset for income tax purposes
Last day to disallow	9 September 2013
Authorising legislation	<i>Income Tax Assessment Act 1997</i>
Department	Treasury

Defence Determination 2013/26, Salary non-reduction – amendment; Defence Determination 2013/27, Chaplains – amendment; and Defence Determination 2013/28, Salary non-reduction and rent ceilings – amendment

Purpose	(1) Extends the non-reduction period for members in employment categories requiring further protection; (2) prescribes the decision-maker in each Service whose decision to place a Reserve Chaplain on a Notification Team roster triggers a special payment arrangement for the member and removes the prescription for a Chaplain to be posted to a position that requires the competency level the Chaplain has achieved; and (3) includes a salary non-reduction period for Warrant Officer Flight Engineers who remuster to another Airmen Aircrew mustering, extends the salary non-reduction period for Flight Test Engineers and removes rent ceilings for Exmouth and Learmonth
Last day to disallow	11 September 2013
Authorising legislation	<i>Defence Act 1903</i>
Department	Defence

Defence Home Ownership Assistance Scheme Amendment (Average House Price and Median Interest Rate) Determination 2013 [F2013L01012]

Purpose	Amends the Defence Home Ownership Assistance Scheme (Average House Price and Median Interest Rate) Determination 2008 to set the average house price for the purpose of calculating the monthly subsidy amount for the Defence Home Ownership Assistance Scheme
Last day to disallow	11 September 2013
Authorising legislation	<i>Defence Home Ownership Assistance Scheme Act 2008</i>
Department	Defence

National Health Security (SSBA Standards) Determination 2013 [F2013L01065]

Purpose	Revokes and remakes the National Health Security Sensitive Biological Agents Standards
Last day to disallow	12 September 2013
Authorising legislation	<i>National Health Security Act 2007</i>
Department	Health and Ageing

Social Security (Special Disability Trust - Trust Deed, Reporting and Audit Requirements) (FaHCSIA) Determination 2013 [F2013L01026]

Purpose	Revokes the Social Security (Special Disability Trust - Trust Deed, Reporting and Audit Requirements) (FaHCSIA) Determination 2011 and determines new requirements in relation to Special Disability Trusts
Last day to disallow	11 September 2013
Authorising legislation	<i>Social Security Act 1991</i>
Department	Families, Housing, Community Services and Indigenous Affairs

ISSUE:

Drafting

Each of the instruments listed above appears to rely on subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that the power to make an instrument includes the power to vary or revoke the instrument. If that is the case, it would be preferable for the making words of the instrument and the ES to clearly identify the authority for the exercise of the power. **The committee therefore draws this issue to the attention of relevant ministers and instrument-makers.**

Chapter 2

Concluded matters

This chapter lists matters previously raised by the committee and considered at its meeting on **27 June 2013**. The committee has concluded its interest in these matters on the basis of responses received from ministers or relevant instrument-makers.

Correspondence relating to these matters is included at Appendix 3.

Migration Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 33, 2013] [F2013L00490]

Purpose	Amends the Migration Regulations 1994 and the Migration Agents Regulations 1998 to strengthen and improve immigration policy, particularly in relation to Tribunal fees, post-study work arrangements, cancellation of student visas and migration agents
Last day to disallow¹	26 August 2013
Authorising legislation	<i>Migration Act 1958</i>
Department	Immigration and Citizenship

ISSUE:

Whether any person disadvantaged by administrative error

Items 6 and 7 of Schedule 2 to the instrument effect amendments relating to post-study work arrangements and other matters, including the correction of an incorrect reference in existing subclause 202.222(2), which refers to 'persecution' rather than 'discrimination'. The subclause relates to factors to which the minister is required to have regard in being satisfied that there are compelling reasons for giving special consideration to granting an applicant a permanent visa. The committee's usual approach where an instrument corrects an administrative error, such as in this case, is that the ES for the instrument address the question of whether any person was disadvantaged by the error and, if so, whether and what steps have been taken to address that disadvantage **[the committee sought further information from the minister]**.

MINISTER'S RESPONSE:

The minister confirmed that no person had been disadvantaged by the incorrect reference to 'persecution' in the instrument.

1 'Last day to disallow' refers to the last day on which notice may be given of a motion for disallowance in the Senate. In the event that the disallowance period is interrupted for the election of the 44th Parliament, as is expected to occur over August-September 2013, the counting of the 15-day disallowance period will continue from the first day of sitting of the new Parliament.

COMMITTEE RESPONSE:

The committee thanks the minister for his response and has concluded its interest in the matter.

Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No. 1) [F2013L00686]

Purpose	Makes a number of amendments to the Southern Bluefin Tuna Fishery Management Plan 1995
Last day to disallow	27 August 2013
Authorising legislation	<i>Fisheries Management Act 1991</i>
Department	Agriculture, Fisheries and Forestry

ISSUE:*Uncertain requirement*

The instrument makes a number of amendments to the Southern Bluefin Tuna Fishery Management Plan 1995. Proposed new subclauses 18.5 and 18.6 specify circumstances in which the Australian Fisheries Management Authority is required to determine the actual live weight value of a statutory fishing right for the season 'without delay'. However, the explanatory statement (ES) for the instrument provides no guidance as to how the term 'without delay' will be applied or interpreted, and the committee considers that it is unclear why a more certain time period could not be specified [the committee sought further information from the minister].

MINISTER'S RESPONSE:

The minister advised that the term 'without delay' has always been interpreted as meaning 'as soon as practicable'. The Australian Fisheries Management Authority would determine the live weight of the statutory fishing right for the season as soon as practicable after it had determined the AusCatch for the period as specified in subclause 18.5 of the Plan.

COMMITTEE RESPONSE:

The committee thanks the minister for his response and has concluded its interest in the matter.

Public Lending Right Scheme 1997 (Modification No. 1 of 2013) [F2013L00682]

Purpose	Approves the rates of Public Lending Right payment for 2012-13
Last day to disallow	27 August 2013
Authorising legislation	<i>Public Lending Right Act 1985</i>
Department	Regional Australia, Local Government, Arts and Sport

ISSUE:***Unclear basis for determining rate***

The instrument increases the rates of Public Lending Right payments to eligible creators and publishers for 2012-13 from \$1.86 to \$1.96 and from 46.5 to 49 cents respectively. The ES for the instrument notes that the Minister for the Arts has taken into account the advice of the Public Lending Right Committee (PLRC); however, the ES does not set out the substance of that advice and therefore does not explain the basis on which the payment rates have been adjusted. In the interests of promoting the intelligibility and usability of delegated legislation, the committee considers that it would be preferable for this to be set out in the ES [**the committee sought further information from the minister and requested that the ES be amended accordingly**].

PARLIAMENTARY SECRETARY'S RESPONSE:

The Parliamentary Secretary for the Arts responded, advising that the rates were increased on the basis of advice from the Public Lending Right Committee (PLRC). The advice from the PLRC took into account the impact of indexation on the appropriation and the effect of the rise in the minimum payment to eligible claimants from \$50 to \$100 on the funds available for distribution under the program in 2012-13. The parliamentary secretary further advised that the ES had been amended to include the information provided.

COMMITTEE RESPONSE:

The committee thanks the parliamentary secretary for his response and has concluded its interest in the matter.

Appendix 1

Index of instruments scrutinised

The following instruments were considered by the committee at its meeting on **27 June 2013**.

The Federal Register of Legislative Instruments (FRLI) website should be consulted for the text of instruments and explanatory statements, as well as associated information.¹ Instruments may be located on FRLI by entering the relevant FRLI number into the FRLI search field (the FRLI number is shown in square brackets after the name of each instrument listed below).

Instruments received week ending 31 May 2013

Australian Meat and Live-stock Industry Act 1997

Australian Meat and Live-stock Industry (High Quality Beef Export to the European Union) Order 2013 [F2013L00846]

Australian Prudential Regulation Authority Act 1998

Australian Prudential Regulation Authority (confidentiality) determination No. 9 of 2013 [F2013L00858]

Autonomous Sanctions Act 2011

Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Zimbabwe) Amendment List 2013 (No. 2) [F2013L00857]

Broadcasting Services Act 1992

Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2013 (No. 2) [F2013L00852]

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries – 1.1) Methodology Determination 2013 [F2013L00856]

Civil Aviation Act 1988

CASA 97/13 – Direction – broadcast requirements and frequency [F2013L00859]

CASA ADCX 010/13 – Revocation of Airworthiness Directives [F2013L00847]

Corporations Act 2001

ASIC Class Order [CO 13/632] [F2013L00853]

ASIC Class Rule Waiver [CW 13/680] [F2013L00839]

Defence Act 1903

Defence Determination 2013/22, Cadet forces allowance – amendment

Defence Determination 2013/23, Cadet forces allowance – amendment

¹ FRLI is found online at <http://www.comlaw.gov.au/>.

Defence Determination 2013/24, Partial rent allowance and leave travel – amendment

Defence Determination 2013/25, Post indexes - amendment

Dental Benefits Act 2008

Dental Benefits Rules 2013 [F2013L00845]

National Health Act 1953

National Health Act 1953 - Amendment determination under paragraph 98C(1)(b) (No. PB 33 of 2013) [F2013L00840]

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 5) (No. PB 31 of 2013) [F2013L00842]

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 6) (No. PB 29 of 2013) [F2013L00843]

Native Title Act 1993

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 1) [F2013L00832]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 2) [F2013L00833]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 3) [F2013L00831]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 4) [F2013L00830]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 5) [F2013L00828]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 6) [F2013L00829]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 7) [F2013L00834]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 8) [F2013L00835]

Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 9) [F2013L00836]

Navigation Act 2012

Marine Order 2 (Australian International Shipping Register) 2013 [F2013L00848]

Marine Order 63 (MASTREP) 2013 [F2013L00837]

Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]

Personally Controlled Electronic Health Records Act 2012

PCEHR (Assisted Registration) Amendment Rules 2013 (No. 1) [F2013L00838]

Radiocommunications Act 1992

Radiocommunications (Public Safety and Emergency Response) Class Licence 2013 [F2013L00827]

Remuneration Tribunal Act 1973

Remuneration Tribunal Determination 2013/06 – Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices [F2013L00849]

Schools Assistance Act 2008

Schools Assistance Act 2008 – Determination of Classes of Persons Who Are Not Overseas Students 2013 [F2013L00860]

Therapeutic Goods Act 1989

Therapeutic Goods (Manufacturing Principles) Determination No. 1 of 2013 [F2013L00855]

Therapeutic Goods Order No. 88 – Standards for donor selection, testing, and minimising infectious disease transmission via therapeutic goods that are human blood and blood components, human tissues and human cellular therapy products [F2013L00854]

Instruments received week ending 7 June 2013

Administrative Appeals Tribunal Act 1975

Administrative Appeals Tribunal Amendment (Fees) Regulation 2013 [Select Legislative Instrument No. 89, 2013] [F2013L00910]

Automotive Transformation Scheme Act 2009

Automotive Transformation Scheme Amendment Order 2013 (No. 1) [F2013L00904]

Autonomous Sanctions Act 2011

Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) Amendment List 2013 [F2013L00884]

Banking Act 1959

Banking Amendment (Unclaimed Moneys - Specified Accounts and Conditions) Regulation 2013 [Select Legislative Instrument No. 100, 2013] [F2013L00873]

Broadcasting Services Act 1992

Broadcasting Services (Digital-Only Local Market Areas for Remote Central and Eastern Australia TV1 and Remote Central and Eastern Australia TV2 Licence Areas) Determination 2013 [F2013L00909]

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 5 of 2013) [F2013L00869]

Broadcasting Services (Television Captioning) Standard 2013 [F2013L00918]

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation-1.1) Methodology Determination 2013 [F2013L00875]

Civil Aviation Act 1988

CASA 93/13 - Direction - number of cabin attendants [F2013L00886]

CASA 94/13 - Direction - number of cabin attendants - Jetstar Airways [F2013L00882]

CASA EX54/13 - Exemption - requirement to wear seat belt and safety harness [F2013L00892]

CASA EX59/13 - Exemption — Brindabella Airlines Pty Ltd from subregulation 217 (2) of CAR 1988 and paragraph 3.3 of CAO 82.3 [F2013L00887]

CASA EX60/13 - Exemption - provision of ARFFS service at Port Hedland aerodrome [F2013L00864]

CASA EX61/13 - Exemption – from standard take-off and landing minima – Virgin Australia International Airlines Pty Ltd [F2013L00877]

Corporations Act 2001

Corporations Amendment (Intra-fund Advice Fees) Regulation 2013 [Select Legislative Instrument No. 102, 2013] [F2013L00906]

Corporations Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 101, 2013] [F2013L00905]

Customs Act 1901

Customs (Prohibited Exports) Amendment (Defence Trade Controls) Regulation 2013 [Select Legislative Instrument No. 90, 2013] [F2013L00919]

Customs Tariff (Anti-Dumping) Act 1975

Customs Tariff (Anti-Dumping) Regulation 2013 [Select Legislative Instrument No. 91, 2013] [F2013L00891]

Defence Act 1903

Defence Force Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 92, 2013] [F2013L00901]

Defence Trade Controls Act 2012

Defence Trade Controls Regulation 2013 [Select Legislative Instrument No. 93, 2013] [F2013L00902]

Environment Protection and Biodiversity Conservation Act 1999

Amendment of List of Exempt Native Specimens - Western Australian West Coast Rock Lobster Managed Fishery (28/05/2013) [F2013L00865]

Financial Management and Accountability Act 1997

Revocation of the Commonwealth Grant Guidelines - July 2009 (29/05/2013) [F2013L00913]

Higher Education Support Act 2003

Higher Education Support Act 2003 - VET Provider Approval (No. 19 of 2013) [F2013L00898]

Higher Education Support Act 2003 - VET Provider Approval (No. 20 of 2013) [F2013L00899]

Illegal Logging Prohibition Act 2012

Illegal Logging Prohibition Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 88, 2013] [F2013L00883]

Income Tax Assessment Act 1997

Income Tax Assessment Amendment (Superannuation Measures No. 1) Regulation 2013 [Select Legislative Instrument No. 103, 2013] [F2013L00894]

Marine Safety (Domestic Commercial Vessel) National Law Act 2012

Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013 [Select Legislative Instrument No. 97, 2013] [F2013L00900]

Migration Act 1958

Migration Amendment (Permanent Protection Visas) Regulation 2013 [Select Legislative Instrument No. 106, 2013] [F2013L00890]

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013 [Select Legislative Instrument No. 95, 2013] [F2013L00878]

Migration Legislation Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 96, 2013] [F2013L00885]

Migration (United Nations Security Council Resolutions) Regulations 2007 - Specification under regulation 4 definition of 'resolution' - Specification of United Nations Security Council Resolutions - May 2013 [F2013L00907]

National Greenhouse and Energy Reporting Act 2007

National Greenhouse and Energy Reporting Amendment (LNG, LPG, Opt-in Scheme and Other Measures) Regulation 2013 [Select Legislative Instrument No. 104, 2013] [F2013L00920]

National Health Act 1953

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 3) [F2013L00874]

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 7) (No. PB 35 of 2013) [F2013L00922]

National Portrait Gallery of Australia Act 2012

National Portrait Gallery of Australia Regulation 2013 [Select Legislative Instrument No. 99, 2013] [F2013L00914]

Navigation Act 2012

Marine Order 4 (Transitional modifications) 2013 [F2013L00871]

Navigation Regulation 2013 [Select Legislative Instrument No. 98, 2013] [F2013L00897]

Primary Industries and Energy Research and Development Act 1989

Fisheries Research and Development Corporation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 87, 2013] [F2013L00895]

Radiocommunications Act 1992

Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers - 800 MHz Band) Amendment 2013 (No. 1) [F2013L00861]

Social Security Act 1991

Social Security (Personal Care Support - Queensland Your Life Your Choice Self-Directed Support: Host Providers and Direct Payment) (FaHCSIA) Determination 2013 [F2013L00911]

Superannuation Industry (Supervision) Act 1992

Superannuation (prudential standard) determination No. 1 of 2013 - Prudential Standard SPS 450 - Eligible Rollover Fund (ERF) Transition [F2013L00912]

Superannuation Industry (Supervision) Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 105, 2013] [F2013L00872]

Taxation Administration Act 1953

Taxation Administration Act 1953 - Withholding Schedules 2013 [F2013L00908]

Therapeutic Goods Act 1989

Therapeutic Goods Information (Early Warning System) Specification 2013 [F2013L00893]

Therapeutic Goods (Charges) Act 1989

Therapeutic Goods Legislation Amendment (Fees and Charges) Regulation 2013 [Select Legislative Instrument No. 94, 2013] [F2013L00896]

Instruments received week ending 14 June 2013

Australian Prudential Regulation Authority Act 1998

Australian Prudential Regulation Authority (confidentiality) determination No. 10 of 2013 [F2013L00939]

Australian Prudential Regulation Authority (confidentiality) determination No. 11 of 2013 [F2013L00940]

Broadcasting Services Act 1992

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 6 of 2013) [F2013L00949]

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) (Enclosed Mechanical Processing and Composting Alternative Waste Treatment) Methodology Determination 2013 [F2013L00931]

Civil Aviation Act 1988

Part 42 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L00929]

Corporations Act 2001

ASIC Class Order [CO 13/655] [F2013L00936]

Environment Protection and Biodiversity Conservation Act 1999

Amendment of List of Exempt Native Specimens – Queensland Gulf of Carpentaria Inshore Fin Fish Fishery (05/06/2013) (inclusion) [F2013L00945]

Amendment to the list of threatened species under section 178 of the Environment Protection and Biodiversity Conservation Act 1999 (151) (31/05/2013) [F2013L00937]

Financial Management and Accountability Act 1997

FMA Act (Anzac Centenary Public Fund Special Account) Determination 2013/02 [F2013L00942]

Financial Sector (Collection of Data) Act 2001

Financial Sector (Collect of Data) (reporting standard) determination No. 73 of 2013 – SRS 330.1 – Statement of Financial Performance [F2013L00941]

Financial Sector (Collect of Data) (reporting standard) determination No. 74 of 2013 – SRS 330.0 – Statement of Financial Performance [F2013L00944]

Financial Sector (Collect of Data) (reporting standard) determination No. 75 of 2013 – SRS 331.0 – Services [F2013L00947]

Financial Sector (Collect of Data) (reporting standard) determination No. 79 of 2013 – SRS 530.1 – Investments and Investment Flows [F2013L00948]

Financial Sector (Collect of Data) (reporting standard) determination No. 88 of 2013 – SRS 602.0 – Wind-up [F2013L00951]

Financial Sector (Collect of Data) (reporting standard) determination No. 89 of 2013 – SRS 610.0 – Membership Profile [F2013L00950]

Income Tax Assessment Act 1997

Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2013 (No. 1) [F2013L00929]

Judiciary Act 1903

High Court Amendment (Vexatious Proceedings and Other Matters) Rules 2013 [Select Legislative Instrument No. 107, 2013] [F2013L00924]

Social Security Act 1991

Social Security (Australian Victim of Terrorism Overseas Payment) Principle 2013 [F2013L00946]

Social Security (Personal Care Support – Queensland Your Life Your Choice Self-Directed Support: Host Providers and Direct Payment) (DEEWR) Determination 2013 (No. 1) [F2013L00933]

Superannuation Act 2005

Ninth Amendment of the Superannuation (PSSAP) Trust Deed [F2013L00934]

Superannuation (PSSAP) (Australian Government Superannuation Scheme Member) Declaration 2013 (No. 1) [F2013L00932]

Taxation Administration Act 1953

Lodgement of account activity statements by First home saver account providers for the year ended 30 June 2013 in accordance with the Taxation Administration Act 1953 [F2013L00928]

Lodgement of returns for the year of income ended 30 June 2013 in accordance with the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997, the Taxation Administration Act 1953, the Superannuation Industry (Supervision) Act 1993 and the Income Tax (Transitional Provisions) Act 1997 [F2013L00925]

Lodgement of returns for the year of income ended 30 June 2013 in accordance with the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953 – Department of Human Services – parents with a child support assessment [F2013L00926]

Instruments received week ending 21 June 2013

Agriculture and Veterinary Chemicals Code Act 1994

Agricultural and Veterinary Chemicals Legislation Amendment (2013 Measures No. 1) Regulation 2013 [Select Legislative Instrument No. 108, 2013] [F2013L01016]

Australian Capital Territory (Planning and Land Management) Act 1988

National Capital Plan - Amendment 79 - Removal of West Basin Pedestrian Bridge [F2013L01054]

Australian Charities and Not-for-profits Commission Act 2012

Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 124, 2013] [F2013L01015]

Australian Participants in British Nuclear Tests (Treatment) Act 2006

Treatment Principles (Australian Participants in British Nuclear Tests) 2006 (Miscellaneous Amendments) Instrument 2013 (No. R8/2013) [F2013L01044]

Australian Prudential Regulation Authority Act 1998

Australian Prudential Regulation Authority (confidentiality) determination No.12 of 2013 [F2013L01046]

Australian Prudential Regulation Authority instrument fixing charges No. 5 of 2013 [F2013L00999]

Banking Act 1959

Banking exemption No. 1 of 2013 [F2013L01069]

Bankruptcy Act 1966

Bankruptcy (Fees and Remuneration) Determination 2013 [F2013L01059]

Bankruptcy (Estate Charges) Act 1997

Bankruptcy (Estate Charges) (Amount of Charge Payable) Determination 2013 [F2013L01058]

Broadcasting Services Act 1992

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 7 of 2013) [F2013L0106]

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 8 of 2013) [F2013L01055]

Civil Aviation Act 1988

Australian Technical Standard Order C1007 Instrument 2013 [F2013L00983]

Civil Aviation (Fees) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 119, 2013] [F2013L01003]

Christmas Island Act 1958 and Cocos (Keeling) Islands Act 1955

Territories Legislation (Applied Laws) Amendment Ordinance 2013 (No. 1) [Ordinance No. 1, 2013] [F2013L01017]

Commonwealth Authorities and Companies Act 1997

Commonwealth Authorities and Companies Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 114, 2013] [F2013L01004]

Competition and Consumer Act 2010

Competition and Consumer Act 2010 - Consumer Protection Notice No. 3 of 2013 - Imposition of Interim Ban on Certain Consumer Goods Containing Synthetic Drug Substances [F2013L01053]

Corporations Act 2001

ASIC Class Order [CO 13/656] [F2013L00968]

ASIC Class Order [CO 13/657] [F2013L00979]

Corporations Amendment Regulation 2013 (No. 4) [Select Legislative Instrument No. 115, 2013] [F2013L01013]

Corporations Legislation Amendment (Membership Designations and Other Measures) Regulation 2013 [Select Legislative Instrument No. 125, 2013] [F2013L00993]

Treasury Legislation Amendment (Unclaimed Money and Other Measures) Regulation 2013 [Select Legislative Instrument No. 117, 2013] [F2013L01010]

Customs Act 1901

Customs and Other Legislation Amendment (LAG and Other Measures) Regulation 2013 [Select Legislative Instrument No. 126, 2013] [F2013L01020]

Defence Act 1903

Cadet Forces Regulation 2013 [Select Legislative Instrument No. 112, 2013] [F2013L01021]

Defence Determination 2013/26, Salary non-reduction – amendment

Defence Determination 2013/27, Chaplains – amendment

Defence Determination 2013/28, Salary non-reduction and rent ceilings – amendment

Defence Determination 2013/29, Clearance diver individual bonus payment

Defence (Inquiry) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 113, 2013] [F2013L01018]

Defence Home Ownership Assistance Scheme Act 2008

Defence Home Ownership Assistance Scheme Amendment (Average House Price and Median Interest Rate) Determination 2013 [F2013L01012]

Energy Efficiency Opportunities Act 2006

Energy Efficiency Opportunities Amendment (Continuation of Networks Exemption) Regulation 2013 [Select Legislative Instrument No. 121, 2013] [F2013L01024]

Environment Protection and Biodiversity Conservation Act 1999

Amendment of List of Exempt Native Specimens - South Australian (SA) Abalone Fishery (07/06/2013) [F2013L01030]

Amendment to the list of threatened species under section 178 of the Environment Protection and Biodiversity Conservation Act 1999 (142) (30/05/2013) [F2013L00974]

Environment Protection and Biodiversity Conservation Amendment (Fees for Wildlife Trade Permits) Regulation 2013 [Select Legislative Instrument No. 122, 2013] [F2013L01007]

Financial Management and Accountability Act 1997

FMA Act (Variation and abolition of Special Account) Determination 2013/03 [F2013L01050]

FMA Act (Royal Australian Mint Special Account) Determination 2013/04 [F2013L01049]

FMA Act (Variations and abolitions of Special Accounts) Determination 2013/05
[F2013L01052]

FMA Act (Litigants' Fund Special Account) Determination 2013/06[F2013L01051]

Financial Sector (Collection of Data) Act 2001

Financial Sector (Collection of Data) (reporting standard) determination No. 63 of 2013 – ARS 112.2 – Standardised Credit Risk – Off-balance Sheet Exposures [F2013L00927]

Financial Sector (Collection of Data) (reporting standard) determination No. 64 of 2013 – SRS 114.0 – Operational Risk Financial Requirement [F2013L00956]

Financial Sector (Collection of Data) (reporting standard) determination No. 65 of 2013 - SRS 114.1 - Operational Risk Financial Requirement [F2013L00981]

Financial Sector (Collection of Data) (reporting standard) determination No. 66 of 2013 - SRS 160.0 - Defined Benefit Matters [F2013L00980]

Financial Sector (Collection of Data) (reporting standard) determination No. 67 of 2013 – SRS 160.1 – Define Benefit Member Flows [F2013L00960]

Financial Sector (Collection of Data) (reporting standard) determination No. 68 of 2013 – SRS 161.0 – Conditions of Release [F2013L00963]

Financial Sector (Collection of Data) (reporting standard) determination No. 69 of 2013 – SRS 250.0 – Acquired Insurance [F2013L00975]

Financial Sector (Collection of Data) (reporting standard) determination No. 70 of 2013 – SRS 320.0 – Statement of Financial Position [F2013L00976]

Financial Sector (Collection of Data) (reporting standard) determination No. 71 of 2013 – SRS 320.1 – Statement of Financial Position [F2013L00977]

Financial Sector (Collection of Data) (reporting standard) determination No. 72 of 2013 - SRS 330.0 - Statement of Financial Performance [F2013L00986]

Financial Sector (Collection of Data) (reporting standard) determination No.76 of 2013 – SRS 410.0 – Accrued Default Amounts [F2013L00958]

Financial Sector (Collection of Data) (reporting standard) determination No.77 of 2013 – SRS 520.0 – Responsible Persons Information [F2013L00978]

Financial Sector (Collection of Data) (reporting standard) determination No. 78 of 2013 - SRS 530.0 – Investments [F2013L00984]

Financial Sector (Collection of Data) (reporting standard) determination No. 80 of 2013 – SRS 531.0 – Investment Flows [F2013L00962]

Financial Sector (Collection of Data) (reporting standard) determination No. 81 of 2013 – SRS 532.0 – Investment Exposure Concentrations [F2013L00961]

Financial Sector (Collection of Data) (reporting standard) determination No. 82 of 2013 – SRS 533.0 – Asset Allocation [F2013L00973]

Financial Sector (Collection of Data) (reporting standard) determination No. 83 of 2013 – SRS 534.0 – Derivative Financial Instruments [F2013L00967]

Financial Sector (Collection of Data) (reporting standard) determination No. 84 of 2013 – SRS 535.0 – Securities Lending [F2013L00969]

Financial Sector (Collection of Data) (reporting standard) determination No. 85 of 2013 – SRS 540.0 – Fees [F2013L00971]

Financial Sector (Collection of Data) (reporting standard) determination No. 86 of 2013 – SRS 600.0 – Profile and Structure (RSE Licensee) [F2013L00972]

Financial Sector (Collection of Data) (reporting standard) determination No. 87 of 2013 – SRS 610.2 – Profile and Structure (RSE) [F2013L00952]

Financial Sector (Collection of Data) (reporting standard) determination No. 90 of 2013 – SRS 610.1 – Changes in Membership Profile [F2013L00954]

Financial Sector (Collection of Data) (reporting standard) determination No. 91 of 2013 – ASS 610.2 – Membership Profile [F2013L00953]

Financial Sector (Collection of Data) (reporting standard) determination No. 93 of 2013 – SRS 710.0 – Conditions of Release [F2013L00963]

Financial Sector (Collection of Data) (reporting standard) determination No. 94 of 2013 – SRS 800.0 – Financial Statements [F2013L00955]

Financial Sector (Collection of Data) (reporting standard) determination No. 95 of 2013 – SRS 801.0 – Investments and Investment Flows [F2013L00957]

Financial Sector (Collection of Data) (reporting standard) determination No. 96 of 2013 - SRS 802.0 - Fund Profile [F2013L00987]

Fisheries Management Act 1991

Northern Prawn Fishery (Closures) Direction No. 164 [F2013L01040]

Fuel Tax Act 2006

Road User Charge Determination (No. 1) 2013 [F2013L00990]

Higher Education Support Act 2003

Higher Education Provider Approval No. 3 of 2013 [F2013L00998]

Higher Education Support Act 2003 – VET Provider Approval (No. 21 of 2013) [F2013L00965]

Higher Education Support Act 2003 - VET Provider Approval (No. 22 of 2013) [F2013L01034]

Higher Education Support Act 2003 - VET Provider Approval (No. 23 of 2013) [F2013L01068]

Income Tax Assessment Act 1936

Income Tax Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 128, 2013] [F2013L01001]

Income Tax Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 129, 2013] [F2013L00992]

Income Tax Assessment Act 1997

Income Tax Assessment Amendment (Exempt Entities) Regulation 2013 [Select Legislative Instrument No. 127, 2013] [F2013L01019]

Marine Safety (Domestic Commercial Vessel) National Law Act 2012

Marine Safety (Domestic Commercial Vessel) National Law (Meaning of Corresponding State-Territory law) Declaration 2013 [F2013L00970]

Maritime Transport and Offshore Facilities Security Act 2003

Maritime Transport and Offshore Facilities Security Amendment (Security Assessment Inspectors) Regulation 2013 [Select Legislative Instrument No. 120, 2013] [F2013L01031]

Marriage Act 1961

Marriage (Recognised Denominations) Amendment Proclamation 2013 [F2013L01025]

Migration Act 1958

Migration Agents Regulations 1998 - Specification under regulations 9F and 9J - Fees for Performing Assessments - June 2013 [F2013L00982]

Migration Amendment Regulation 2013 (No. 4) [Select Legislative Instrument No. 131, 2013] [F2013L01014]

Migration Amendment (Visa Application Charge and Related Matters) Regulation 2013 [Select Legislative Instrument No. 118, 2013] [F2013L01029]

Military Rehabilitation and Compensation Act 2004

Military Rehabilitation and Compensation (Members - Service End Date) Amendment Determination 2013 (No. MRCC 5) [F2013L01041]

MRCA Treatment Principles (Miscellaneous Amendments) Instrument 2013 (No. MRCC 7/2013) [F2013L01060]

National Disability Insurance Scheme Act 2013

National Disability Insurance Scheme (Becoming a Participant) Rules 2013 [F2013L01066]

National Disability Insurance Scheme (Children) Rules 2013 [F2013L01070]

National Disability Insurance Scheme (Nominees) Rules 2013 [F2013L01062]

National Disability Insurance Scheme (Plan Management) Rules 2013 [F2013L01064]

National Disability Insurance Scheme (Protection and Disclosure of Information) Rules 2013 [F2013L01008]

National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013 [F2013L01009]

National Disability Insurance Scheme (Supports for Participants) Rules 2013 [F2013L01063]

National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013 [F2013L01067]

National Health Act 1953

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 6) (PB 36 of 2013) [F2013L01039]

National Health (Immunisation Program - Designated Vaccines) Variation Determination 2013 (No. 1) [F2013L00996]

National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2013 (No. 1) (No. PB 34 of 2013) [F2013L01037]

National Health Security Act 2007

National Health Security (SSBA Standards) Determination 2013 [F2013L01065]

National Measurement Act 1960

National Measurement Amendment (Fees and Verification) Regulation 2013 [Select Legislative Instrument No. 111, 2013] [F2013L01006]

Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Trial Destruction Facilities and Other Measures) Regulation 2013 [Select Legislative Instrument No. 123, 2013] [F2013L01022]

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment (Insurance Scheme) Regulation 2013 [Select Legislative Instrument No. 109, 2013] [F2013L1005]

Public Service Act 1999

Public Service Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 110, 2013] [F2013L01002]

Social Security Act 1991

Social Security (Exempt Lump Sum) (Defence Abuse Reparation Scheme) (FaHCSIA) Determination 2013 [F2013L01032]

Social Security (Special Disability Trust - Discretionary Spending) (FaHCSIA) Determination 2013 [F2013L01023]

Social Security (Special Disability Trust - Trust Deed, Reporting and Audit Requirements) (FaHCSIA) Determination 2013 [F2013L01026]

Superannuation Act 1976

Superannuation (CSS) Productivity Contribution (2013-2014) Declaration 2013 [F2013L01027]

Superannuation Act 1990

Thirty-Seventh Amendment to the Public Sector Superannuation Scheme Trust Deed [F2013L00966]

Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Act 1991

Superannuation (Self Managed Superannuation Funds) Supervisory Levy Imposition Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 116, 2013] [F2013L00988]

Taxation Administration Act 1953

Tax Administration and Tax Agent Services Legislation Amendment Regulation 2013 [Select Legislative Instrument No. 130, 2013] [F2013L01011]

Telecommunications (Carrier Licence Charges) Act 1997

Telecommunications (Annual Carrier Licence Charge) Determination 2013 [F2013L00985]

Telecommunications (Specification of Costs by the ACMA) Determination 2013 [F2013L00989]

Therapeutic Goods Act 1989

Therapeutic Goods Information (Adverse Event Notifications – Medical Devices) Specification 2013 [F2013L01036]

Veterans' Entitlements Act 1986

Veterans' Entitlements (Invalidity Service Pension — Permanent Incapacity for Work) Determination 2013 [F2013L00997]

Veterans' Entitlements (Treatment Principles - Miscellaneous Amendments) Instrument 2013 (No. R6/2013) [F2013L01042]

Total number of instruments scrutinised: 213

Appendix 2

Guideline on consultation



AUSTRALIAN SENATE

STANDING COMMITTEE ON REGULATIONS AND ORDINANCES

Guideline for preparation of explanatory statements: consultation

Role of the committee

The Standing Committee on Regulations and Ordinances (the committee) undertakes scrutiny of legislative instruments to ensure compliance with [non-partisan principles](#) of personal rights and parliamentary propriety.

Purpose of guideline

This guideline provides information on preparing an explanatory statement (ES) to accompany a legislative instrument, specifically in relation to the requirement that such statements must describe the nature of any consultation undertaken or explain why no such consultation was undertaken.

The committee scrutinises instruments to ensure, inter alia, that they meet the technical requirements of the [Legislative Instruments Act 2003](#) (the Act) regarding the description of the nature of consultation or the explanation as to why no consultation was undertaken. Where an ES does not meet these technical requirements, the committee generally corresponds with the relevant minister seeking further information and appropriate amendment of the ES.

Ensuring that the technical requirements of the Act are met in the first instance will negate the need for the committee to write to the relevant minister seeking compliance, and ensure that an instrument is not potentially subject to [disallowance](#).

It is important to note that the committee's concern in this area is to ensure only that an ES is technically compliant with the descriptive requirements of the Act regarding consultation, and that the question of whether consultation that has been undertaken is appropriate is a matter decided by the rule-maker at the time an instrument is made.

However, the nature of any consultation undertaken may be separately relevant to issues arising from the committee's scrutiny principles, and in such cases the committee may consider the character and scope of any consultation undertaken more broadly.

Requirements of the Legislative Instruments Act 2003

Section 17 of the Act requires that, before making a legislative instrument, the instrument-maker must be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business.

Section 18 of the Act, however, provides that in some circumstances such consultation may be 'unnecessary or inappropriate'.

It is important to note that section 26 of the Act requires that explanatory statements describe the nature of any consultation that has been undertaken or, if no such consultation has been undertaken, to explain why none was undertaken.

It is also important to note that requirements regarding the preparation of a Regulation Impact Statement (RIS) are separate to the requirements of the Act in relation to consultation. This means that, although a RIS may not be required in relation to a certain instrument, the requirements of the Act regarding a description of the nature of consultation undertaken, or an explanation of why consultation has not occurred, must still be met. However, consultation that has been undertaken under a RIS process will generally satisfy the requirements of the Act, provided that that consultation is adequately described (see below).

If a RIS or similar assessment has been prepared, it should be provided to the committee along with the ES.

Describing the nature of consultation

To meet the requirements of section 26 of the Act, an ES must *describe the nature of any consultation that has been undertaken*. The committee does not usually interpret this as requiring a highly detailed description of any consultation undertaken. However, a bare or very generalised statement of the fact that consultation has taken place may be considered insufficient to meet the requirements of the Act.

Where consultation has taken place, the ES to an instrument should set out the following information:

Method and purpose of consultation

An ES should state who and/or which bodies or groups were targeted for consultation and set out the purpose and parameters of the consultation. An ES should avoid bare statements such as 'Consultation was undertaken'.

Bodies/groups/individuals consulted

An ES should specify the actual names of departments, bodies, agencies, groups et cetera that were consulted. An ES should avoid overly generalised statements such as 'Relevant stakeholders were consulted'.

Issues raised in consultations and outcomes

An ES should identify the nature of any issues raised in consultations, as well the outcome of the consultation process. For example, an ES could state: 'A number of submissions raised concerns in relation to the effect of the instrument on retirees. An exemption for retirees was introduced in response to these concerns'.

Explaining why consultation has not been undertaken

To meet the requirements of section 26 of the Act, an ES must *explain why no consultation was undertaken*. The committee does not usually interpret this as requiring a highly detailed explanation of why consultation was not undertaken. However, a bare statement that consultation has not taken place may be considered insufficient to meet the requirements of the Act.

In explaining why no consultation has taken place, it is important to note the following considerations:

Specific examples listed in the Act

Section 18 lists a number of examples where an instrument-maker may be satisfied that consultation is unnecessary or inappropriate in relation to a specific instrument. This list is not exhaustive of the grounds which may be advanced as to why consultation was not undertaken in a given case. The ES should state why consultation was unnecessary or inappropriate, and explain the reasoning in support of this conclusion. An ES should avoid bare assertions such as 'Consultation was not undertaken because the instrument is beneficial in nature'.

Timing of consultation

The Act requires that consultation regarding an instrument must take place before the instrument is made. This means that, where consultation is planned for the implementation or post-operative phase of changes introduced by a given instrument, that consultation cannot generally be cited to satisfy the requirements of sections 17 and 26 of the Act.

In some cases, consultation is conducted in relation to the primary legislation which authorises the making of an instrument of delegated legislation, and this consultation is cited for the purposes of satisfying the requirements of the Act. The committee may regard this as acceptable provided that (a) the primary legislation

and the instrument are made at or about the same time and (b) the consultation addresses the matters dealt with in the delegated legislation.

Seeking further advice or information

For further advice regarding the requirements of the Act in relation to consultation or any other matters, please consult the *Legislative Instruments Handbook: a practical guide for compliance with the Legislative Instruments Act 2003 and related matters* (December 2004), published by the Office of Legislative Drafting and Publishing.

Further information is also available through the committee's website at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=regord_ctte/index.htm or by contacting the committee secretariat at:

Committee Secretary
Senate Regulations and Ordinances Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Phone: +61 2 6277 3066

Fax: +61 2 6277 5881

Email: RegOrds.Sen@aph.gov.au

Appendix 3

Correspondence




The Hon Brendan O'Connor MP
Minister for Immigration and Citizenship

RECEIVED

20 JUN 2013

Senate Standing C'ttee
on Regulations
and Ordinances

Senator the Hon Mark Furner
Chair
Senate Standing Committee on Regulations and Ordinances
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Senator Furner 

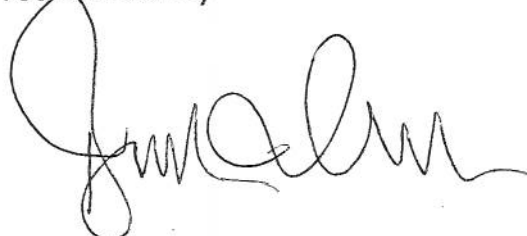
Thank you for your letter of 16 May 2013 about the *Migration Legislation Amendment Regulation 2013 (No. 1)* [Select Legislative Instrument No. 33, 2013] [F2013L00490] (the Amendment Regulation).

As the Committee has noted, items 6 and 7 of the Amendment Regulation correct an incorrect reference in subclause 202.222(2) in Schedule 2 to the *Migration Regulations 1994* (the Regulations), which referred to 'persecution' rather than 'discrimination'. The Committee has sought further information on whether any person was disadvantaged by the incorrect reference to 'persecution' in subclause 202.222(2).

I confirm that no person was disadvantaged by the inclusion of an incorrect reference to 'persecution' in subclause 202.222(2).

I hope the information provided is helpful to the Committee.

Yours sincerely



BRENDAN O'CONNOR

13 JUN 2013



RECEIVED

27 JUN 2013

Senate Standing Committee
on Regulations
and Ordinances

Senator the Hon. Joe Ludwig

Minister for Agriculture, Fisheries and Forestry
Senator for Queensland

REF: MNMC2013-00282

Senator Mark Furner
Chair
Senate Standing Committee on Regulations and Ordinances
Room S1.111
Parliament House
CANBERRA ACT 2600

Dear Chair

Thank you for your correspondence of 16 May 2013 requesting clarification on the application and interpretation of the term 'without delay' and why a more certain time period could not be specified, as contained in instrument *Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No.1)* [F2013L00686].

I welcome the opportunity to clarify this issue. As you are aware the proposed Subclauses 18.5 and 18.6 of the *Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No.1)* [F2013L00686] specifies the circumstances in which the Australian Fisheries Management Authority (AFMA) is required to determine the actual live weight of a statutory fishing right for the season 'without delay'.

I note that the application and interpretation of the term 'without delay' is not defined in the Explanatory Statement for the instrument, nor is there a definition contained in the *Southern Bluefin Tuna Fishery Management Plan Amendment 2012 (No.1)* [F2013L00686] or in the *Acts Interpretation Act 1901*.

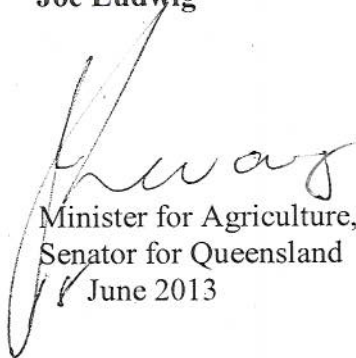
I wish to inform the Committee that the interpretation of 'without delay' is a literal one. That is, to make a decision or perform an act without postponement. In an administrative sense, AFMA would determine the actual live weight of a statutory fishing right for the season as soon as practicable. This would occur after AFMA determines the AusCatch for the period as specified in subclause 18.5 of the Plan.

I would also like to note that the term 'without delay' is used currently in Subclauses 18.5 and 18.6 and the term has always been interpreted as meaning as soon as practicable. Although the Subclauses are being amended, the term 'without delay' remains unchanged.

Thank you for your correspondence and I trust this information is of assistance.

Yours sincerely

Joe Ludwig

A handwritten signature in dark ink, appearing to read 'Ludwig', with a long, sweeping underline that extends to the left and then loops back under the text.

Minister for Agriculture, Fisheries and Forestry
Senator for Queensland
June 2013



RECEIVED

20 JUN 2013
Senate Standing C'ttee
on Regulations
and Ordinances

The Hon Michael Danby MP

Parliamentary Secretary for the Arts

B13/325

Senator Mark Furner
Chair
Senate Standing Committee on Regulations and Ordinances
Room S1.111
Parliament House
CANBERRA ACT 2600

Dear Senator Furner

I refer to your letter of 16 May 2013 in relation to the Public Lending Right Scheme 1997 (Modification 1 of 2013) [F2013L00682]. The Committee requested additional information on how the rates of payment for the Public Lending Right Scheme were ascertained.

I was advised by the Public Lending Right Committee on the PLR rate of payment which took into account the funds available for 2012-13. This year the rate of payment reflects both the impact of the indexation on the appropriation and the effect of the rise in the minimum payment to eligible claimants from \$50 to \$100 on the funds available for distribution under the PLR program in 2012-13.

I considered that advice and on that basis decided to approve the rate of payment on 22 April 2013 and consequently they were increased from \$1.86 to \$1.96 for creators and 46.5 to 49 cents for publishers. I have reflected the impact of this advice on my decision making in the revised Explanatory Statement enclosed with this letter.

Thank you for the opportunity to provide clarification on the matter raised. Should you require any further assistance, please contact Ms Lyn Allan, Assistant Secretary, Collections and Cultural Heritage, on 6210 2838, or by email at Lyn.Allan@pmc.gov.au.

Yours sincerely

Michael Danby