



Senate Standing Committee for the Scrutiny of Delegated Legislation Delegated Legislation Monitor 2 of 2020

Tabling Statement

Wednesday 12 February 2020

As Chair of the Standing Committee for the Scrutiny of Delegated Legislation I rise to speak to the tabling of the committee's *Delegated Legislation Monitor 2 of 2020*.

This Monitor contains the first instruments scrutinised by the committee in accordance with the scrutiny principles set out in the recently amended standing order 23. I would like to take this opportunity to highlight some of the key changes which the committee has made to its reporting practices, pursuant to the amendments to standing order 23.

In addition to Chapter 1 of the Monitor, which continues to highlight the committee's most significant and unresolved scrutiny concerns, the Monitor now contains a second and third chapter.

Chapter 2 of the Monitor identifies instruments which the committee has resolved to draw to the attention of the Senate and relevant legislation committees under standing order 23(4), because they raise significant matters or matters otherwise of interest to the Senate. In practice, 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.

As a technical scrutiny committee, the committee does not express a view as to the policy merits or otherwise of these instruments. However, it has resolved to draw these instruments to the attention of the Senate in an attempt to promote greater scrutiny of the increasingly significant and complex matters contained in delegated legislation. It will, of course, remain a question for the Senate and the relevant legislation committees as to

whether they decide to further examine the instruments raised by this committee under standing order 23(4).

The committee has identified one such instrument in Chapter 2 of *Delegated Legislation Monitor 2 of 2020*. The Competition and Consumer (Industry Codes—Dairy) Regulations 2019 establish a mandatory Dairy Code of Conduct that sets out a regulatory scheme for enforceable minimum standards of conduct for business practices between dairy farmers and processors of milk. In doing so, the instrument appears to implement significant elements of a regulatory scheme, and addresses matters which have been subject to a number of significant external reviews. Accordingly, the committee has resolved to draw this instrument to the attention of the Senate and the Rural and Regional Affairs and Transport Legislation Committee under standing order 23(4).

The committee has also resolved to add a third chapter to the Monitor, to identify all legislative instruments which, in combination with their enabling Acts, authorise the Commonwealth to spend public money. Chapter 3 of *Delegated Legislation Monitor 2 of 2020* contains 10 such instruments, which together specify expenditure in excess of \$300 million. In the committee's view, the scrutiny of these instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure.

The committee trusts that these additions to the Monitor, combined with the recent amendments to the committee's standing orders, will further promote parliamentary scrutiny of delegated legislation, in accordance with the findings and recommendations of the committee's 2019 inquiry.

With these comments, I commend the committee's *Delegated Legislation Monitor 2 of 2020* to the Senate.