



Attorney-General



121 Exhibition Street
Melbourne Victoria 3000
GPO Box 123
Melbourne Victoria 3001
Telephone: (03) 8684 1111
Facsimile: (03) 8684 1100
DX 210220

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Senator Trish Crossin
Chair
Senate Standing Committee on Legal and Constitutional Affairs
Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Senator Crossin

CRIMES LEGISLATION AMENDMENT (SLAVERY, SLAVERY-LIKE CONDITIONS AND PEOPLE TRAFFICKING) BILL 2012

I refer to the Legislation Committee's request for written submissions on this Bill.

The Victorian Government made comment on this Bill during its development by the Federal Minister for Justice. Analysis of the exposure draft has revealed that a number of issues of concern for Victorian remain outstanding. These issues are detailed at Attachment A and are provided for the Committee's consideration.

While these concerns might be characterised as minor and technical, they are in my view, important to proposed Act's operation, particularly in respect of the provisions' utility in law enforcement contexts. I would be grateful if you would consider them during your deliberations on this important Bill.

Yours sincerely

ROBERT CLARK MP
Attorney-General

13/8/12

Attachment A

Crimes Legislation Amendment (Slavery, Servitude and People Trafficking) Offences Bill

Comments on exposure draft

Clause 270.1A states that conducting a business includes:

- (a) taking any part in the management of the business; and
- (b) exercising control or direction over the business; and
- (c) providing finance for the business.

Because of the use of the word “and”, a person must take part in the management of the business *as well as* exercising control *and* providing finance in order to be captured by the offences for conducting a business involving servitude or forced labour. Victoria queries whether this was the intention of the drafter.

Victoria queries whether it is necessary to include the terms “freely and fully” in relation to consent in s.270.7A(1). The terms are not mutually exclusive and essentially mean the same thing. As such, the provision may be called into question in litigation. As a result, Victoria suggests that the terms “freely and fully” be removed to enable the courts to rely on the normal rules and precedents as to the meaning of consent.

The Bill is supported in principle.