



ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

**GOVERNMENT RESPONSE TO THE SENATE STANDING COMMITTEE ON
LEGAL AND CONSTITUTIONAL AFFAIRS REPORT ON ITS INQUIRY INTO
THE AUSTRALIAN LAW REFORM COMMISSION**

The Government has repeatedly put on record its strong support for the work of the Australian Law Reform Commission (ALRC) and agrees with the Senate Committee's assessment that the ALRC's work is widely respected.

Since its establishment in 1973, the ALRC has concluded more than 100 inquiries and has made a substantial contribution to the public debate on issues as diverse as privacy, personal insolvency, the use of genetic information, admiralty law and the operation of the federal justice system.

This contribution continues, with the ALRC's recent work with the New South Wales Law Reform Commission on family violence (ALRC 114: *Family Violence – A National Legal Response* (2010)). The recommendations in this report are helping to shape the Government's response to this complex issue, including by influencing the landmark Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 that is currently before this Parliament.

The ALRC is currently going through a period of transition. Reforms made to the *Australian Law Reform Commission Act 1996* (the Act) by the *Financial Framework Legislation Amendment Act 2010* give the ALRC greater flexibility in the way it goes about its work whilst providing an appropriate governance framework that preserves its independence.

The Government believes that the reforms will generate opportunities and ongoing benefits for the Commission, and is committed to working closely with the Commission as it adapts to these changes.

Recommendation 1

6.1 The committee recommends that the Australian Government restore the ALRC's budget cuts for the period 2010-11 to 2013-14 as a matter of urgency.

Government Response to Recommendation 1

Not accepted

As with other Australian Government agencies, the Commission is required to meet the efficiency dividend. The Commission's budget was also reduced in the 2009 Mid-Year Economic and Fiscal Outlook, the savings from which are a key component of the Government's commitment to returning the Budget to surplus and maintaining spending restraint to support long-term stability.

The Government is satisfied that the ALRC has sufficient funding to discharge its important statutory function – to conduct inquiries into matters referred to it by the Attorney-General.

The ALRC is implementing a range of measures that will provide substantial savings over time, but which will not compromise the delivery of its core work. These measures include relocating to more affordable premises.

In the interim, additional financial assistance is being provided to the ALRC through the Attorney-General's Department to allow the appointment of a second full-time commissioner to assist for the duration of the review of the National Classification Scheme. Terms of reference for this inquiry were released on 24 March 2011.

The Government has full confidence in the ability of the President of the ALRC, Professor Rosalind Croucher, to manage the organisation within its appropriation.

Recommendation 2

6.2 The committee recommends that the ALRC Act be amended to provide for a minimum of two standing, fixed-term (not inquiry-specific), full-time commissioners.

Recommendation 3

6.3 The committee recommends that an additional full-time commissioner be appointed, for each additional inquiry referred to the ALRC, in circumstances where the ALRC already has two or more ongoing inquiries.

Government Response to Recommendations 2 and 3

Not accepted

A key aspect of the reforms contained in the *Financial Framework Legislation Amendment Act 2010* is the removal of mandated numbers of commissioners. The purpose of this reform is to allow the ALRC to use its appropriation more flexibly in responding to the work it has on hand. This revised structure takes into account the varied, and often highly technical, subject matters of inquiries.

As outlined in relation to Recommendation 1, the Government has appointed a second full time Commissioner, Professor Terry Flew, for the duration of the inquiry into the National Classification System. Professor Flew's expertise in media and communications will be a great asset to the Commission for this review.

The Government anticipates that the second Commissioner position will continue to be filled beyond the inquiry into the National Classification System. In keeping with the Government's desire for greater flexibility, the Government would look to fill the position in a way that best suits the ALRC's program of work at the time of any appointment.

The Attorney-General is committed to ensuring that consultation with the ALRC on its capacity to take on new work continues to occur before new references are given.

Recommendation 4

6.4 The committee recommends that the ALRC's public information and education services program be resumed immediately.

Government Response

It is a matter for the President to determine the best use the ALRC's resources to undertake inquiries into matters referred to it by the Attorney-General.

Recommendation 5

6.5 The committee recommends that the ALRC be provided with all necessary resources to enable it to continue to travel to undertake face-to-face consultations as part of its inquiry processes.

Government Response

It is a matter for the President to determine the best use the ALRC's resources to undertake inquiries into matters referred to it by the Attorney-General.

While the Government agrees that there is value in face-to-face consultations, the ALRC's innovative use of online consultation practices demonstrates the variety of ways in which a law reform body can reach stakeholders.

Conclusion

As it approaches forty years at the forefront of law reform in this country, the Government believes the ALRC is well equipped to respond to new challenges and opportunities.

The Government has an ambitious law reform agenda and is confident the ALRC will make a significant contribution to that agenda.