SENATE STANDING COMMITTEE

FOR THE

SCRUTINY OF BILLS

SIXTEENTH REPORT

OF

2002

11 December 2002

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MEMBERS OF THE COMMITTEE

Senator J McLucas (Chair)
Senator B Mason (Deputy Chairman)
Senator G Barnett
Senator T Crossin
Senator D Johnston
Senator A Murray

TERMS OF REFERENCE

Extract from **Standing Order 24**

(1) (a) At the commencement of each Parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:

(i) trespass unduly on personal rights and liberties;

(ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;

(iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;

(iv) inappropriately delegate legislative powers; or

(v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

(b) The Committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

SIXTEENTH REPORT OF 2002

The Committee presents its Sixteenth Report of 2002 to the Senate.

The Committee draws the attention of the Senate to clauses of the following which contain provisions that the Committee considers may fall within principles 1(a)(i) to 1(a)(v) of Standing Order 24:

Copyright Amendment (Parallel Importation) Bill 2002

Higher Education Funding Amendment Act 2002

Medical Indemnity Bill 2002

Copyright Amendment (Parallel Importation) Bill 2002

Introduction

The Committee dealt with this bill in *Alert Digest No. 3 of 2002*, in which it made various comments. The Attorney-General has responded to those comments in a letter dated 4 June 2002. A copy of the letter is attached to this report. An extract from the *Alert Digest* and relevant parts of the Attorney-General's response are discussed below.

Extract from Alert Digest No. 3 of 2002

This bill was introduced into the House of Representatives on 13 March 2002 by the Attorney-General. [Portfolio responsibility: Attorney-General]

The bill proposes to amend the *Copyright Act 1968* to enable the legal parallel importation and subsequent commercial distribution of computer software products, including interactive computer games, books, periodical publications (such as journals and magazines) and sheet music. It applies to imported articles.

Amendments to correct or clarify the law are also proposed in relation to the communication to the public of works and other subject matter using electronic networks.

The bill also contains application provisions.

Retrospective commencement
Schedule 3, items 1, 2, 3, 5 and 7

Subclause 2(1) also permits the amendments proposed by items 1-3, 5 and 7 of Schedule 3 to commence retrospectively, immediately after the commencement of the *Copyright Amendment (Digital Agenda) Act 2000*. The Explanatory Memorandum points out that these amendments are technical in nature, and correct drafting errors. However, it does not provide an assurance that they will not operate to the disadvantage of any person. The Committee, therefore, **seeks the Attorney-General's confirmation** that no-one will be disadvantaged by these amendments.

Pending the Attorney's confirmation, the Committee draws Senators' attention to these provisions as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.

Relevant extract from the response from the Attorney-General

The Committee seeks my confirmation that no person will be disadvantaged by the retrospective commencement of the amendments proposed by items 1-3, 5 and 7 of Schedule 3 of the Bill. I note, that these amendments are technical in nature, and designed to correct drafting errors in the *Copyright Amendment (Digital Agenda) Act 2000*. I will address each item in turn.

Items 1 and 2 of Schedule 3 of the Bill amend the *Copyright Act 1968* by omitting the term 'effective' from the definition of circumvention device and circumvention service respectively. The definitions of circumvention device and circumvention service in section 10(1) of the Copyright Act refer to 'facilitating the circumvention of an effective technological protection measure'. The definition of technological protection measure in section 10(1) of the Copyright Act however does not include the word 'effective'. The purpose of this amendment is to ensure that there is consistency between the definition of circumvention device, circumvention service and technological protection measure. The amendment would not operate to the disadvantage of any person as the word 'effective' is superfluous and its removal does not affect the intended operation of the Copyright Act.

Item 3 of Schedule 3 of the Bill amends the definition of 'technological protection measure' in section 10(1) of the Copyright Act by substituting the word 'licensee' with 'exclusive licensee'. The purpose of the amendment is to ensure that there is consistency between the definition of technological protection measure and sections 116A and 132 of the Copyright Act. Sections 116A and 132 provide for civil remedies and criminal sanctions against the manufacture of, and commercial dealing in, circumvention devices and services used to circumvent technological protection measures. At the time of the passage of the Digital Agenda Act amendments were made to narrow the class of persons who could provide permission to undertake such proscribed activities. This was achieved by substituting the word 'licensee' with 'exclusive licensee' in sections 116A and 132.

The purpose of the amendment was to strengthen the enforcement provisions by preventing persons who had little or no commercial interest in the protection of copyright material (such as general 'licensees' as opposed to 'exclusive licensees') from granting permission to undertake the proscribed activities. In implementing the amendment a drafting error was made as the reference to 'licensee' in the definition of technological protection measure was not similarly amended. Item 3 of Schedule 3 of the Bill corrects this drafting error. It is highly unlikely that this amendment will operate to the disadvantage of any person.

Item 5 of Schedule 3 of the Bill is a technical amendment to correct a misdescription in the Digital Agenda Act. The amendment repeats the intended amendment with the correct reference to the words to be omitted. It replaces the words 'for the making, by reprographic reproduction, of copies of documents', which currently appear in section 39A of the Copyright Act, with the words 'including computers'. Section 39A provides that if a person makes an infringing copy of a work on a machine for the making, by reprographic reproduction, of copies of documents, on a machine provided by a library or archives and there is affixed to, or in close proximity to, the machine, a prescribed notice neither the body administering the library or archives nor the officer in charge of the library or archives shall be taken to have authorised the making of the infringing copy by reason only that the copy was made on that machine.

The amendment will enable the defence provided under section 39A to apply to copies made on library computers. Technically, this amendment does extend the protection of libraries in respect to infringing copies made on computers, however it is unlikely that any person (ie copyright owner) would be disadvantaged by its operation. It was widely understood amongst libraries and copyright owners at the time of the passage of the Digital Agenda reforms that section 39A would be amended so as to apply to copies made on library computers. Section 39A does not provide an absolute defence to the authorisation liability of libraries and archives. A person or library is still liable for infringement if the criteria for 'authorisation' are satisfied.

Item 7 of Schedule 3 of the Bill is a technical amendment that substitutes 'copy' with 'reproduction' in paragraphs (b) and (c) of section 53 of the Copyright Act. The amendment ensures consistency with amendments made in the Digital Agenda Act which substituted 'reproduction' for 'copy' in the provisions to which paragraphs 53(b) and (c) refer. Consequently, item 7 of Schedule 3 of the Bill does not operate to disadvantage any person.

I trust this responds to the concerns raised by the Committee.

The Committee thanks the Attorney-General for this detailed response.

Higher Education Funding Amendment Act 2002

Introduction

The Committee dealt with the bill for this Act in *Alert Digest No. 5 of 2002*, in which it made various comments. The Minister for Education, Science and Training responded to those comments in a letter dated 19 August 2002. The Committee commented on the response in its *Ninth Report of 2002.*

In *Alert Digests Nos. 10 and 11 of 2002*, the Committee commented on amendments made in the Senate and House of Representatives and sought advice from the Minister regarding these amendments.

The Minister has responded in a letter dated 5 December 2002. Although this bill has been passed by both Houses (and received Royal Assent on 21 October 2002) the response may, nevertheless, be of interest to Senators. A copy of the letter is attached to this report. An extract from the amendments section in *Alert Digests Nos. 10 and 11* and relevant parts of the Minister's response are discussed below.

Extract from Amendments Section of Alert Digest No. 10 of 2002

Higher Education Funding Amendment Bill 2002: On 19 September 2002, the Senate agreed to amend this bill. The Committee commented on the bill in *Alert Digest No. 5 of 2002* and the *Ninth Report of 2002* in relation to retrospective commencement. In relation to the amendments, the Committee makes the following comments:

Non-reviewable decision by Minister
Proposed new paragraphs 98A(1)(c) and (d)

These proposed provisions give a power to the Minister to be satisfied that certain courses meet specified criteria. The provisions provide safeguards for the exercise of this discretion, but there is no immediately apparent provision for independent merits review of an adverse decision by the Minister. The Committee, therefore, **seeks the Minister's advice** on this aspect of the provisions.

Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to make rights, liberties or obligations unduly dependent upon non-reviewable decisions, in breach of principle 1(a)(iii) of the Committee's terms of reference.

Extract from Amendments Section of Alert Digest No. 11 of 2002

Higher Education Funding Amendment Bill 2002: On 25 September 2002, the House of Representatives agreed to amendments to this bill in place of certain Senate amendments disagreed by the House. The House agreed to other amendments passed in the Senate and disagreed to others. The Committee commented on the Senate amendments in *Alert Digest No. 10 of 2002* in relation to non-reviewable decisions by the Minister and to incorporation of external material as in force from time to time. The Committee sought the Minister's advice on these two matters and will report in the usual way when a response is received. The House amendments affect these two matters, but essentially retain the non-reviewable decisions and the incorporation power. The amendments (proposed section 98JA) also provide for other Ministerial discretions and the Committee similarly **seeks the Minister's advice** about avenues of review.

Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to make rights, liberties or obligations unduly dependent upon non-reviewable decisions, in breach of principle 1(a)(iii) of the Committee's terms of reference and may be considered to insufficiently subject the exercise of legislative power to parliamentary scrutiny, in breach of principle 1(a)(v) of the Committee's terms of reference.

Relevant extract from the response from the Minister

> Although decisions made under subsection 98A(1)(c) and (d) and section 98JA are not subject to a merits review by the Administrative Appeals Tribunal, they are not outside the scope of all review mechanisms. The *Administrative Decisions (Judicial Review) Act 1977* provides for judicial review of decisions made under an enactment. Decisions made under these sections would, therefore, be reviewable under that Act.

The Committee thanks the Minister for this response, but makes the following comments in relation to it.

The Committee notes that most administrative decisions made under an enactment are subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977*. That Act, however, generally relates to legality and proper process and not to the substantive merits of a case. For a decision to be subject to Administrative Appeals Tribunal review of its merits requires a positive legislative referral for that class of decision. Merits review is usually more beneficial to appellants than judicial review under the AD(JR) Act, useful as that is, and the Committee notes the Minister's advice that it has not been provided in this case.

Extract from Amendments Section of Alert Digest No. 10 of 2002

Incorporation of external material as in force from time to time
Subsection 98A(1), proposed new definition of "National Protocols"

This proposed definition refers to external material as in force from time to time, which means that the Parliament may not be aware of what may effectively be changes in the way an Act operates. The Committee usually raises the need for such provisions and the desirability of suitable protection for their operation. The Committee, therefore, **seeks the Minister's advice** on this aspect of the definition.

Pending the Minister's advice, the Committee draws Senators' attention to the provision, as it may be considered to insufficiently subject the exercise of legislative power to parliamentary scrutiny, in breach of principle 1(a)(v) of the Committee's terms of reference.

Relevant extract from the response from the Minister

> The National Protocols for Higher Education Approval Processes are endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). One of the aims of the Protocols is to achieve consistency across all states and territories in relation to the regulation of higher education. It would be inconsistent with this goal for the Commonwealth to adopt criteria which were different to that being applied by the states and territories. For that reason, it is preferable that the National Protocols be incorporated by reference, rather than set out in the legislation, so that the Commonwealth can act consistently with whatever changes MCEETYA makes to the National Protocols.
>
> I trust my comments will address any concerns the Committee had.

The Committee thanks the Minister for this response. In recent months the Committee has commented on a number of provisions relating to this issue. However, in the light of the Minister's explanation, the Committee concludes that the present case is probably at the less egregious end of the scale. Nevertheless, the Committee has always emphasised that the mere reference to an arrangement between the Commonwealth and the states and territories is not by itself justification for excluding from parliamentary scrutiny what may be material with legislative effect. In this context, the Committee understands that incorporated material in other national or uniform legislative schemes is subject to parliamentary oversight. In any event, such provisions as the present case could include a requirement to table if full scrutiny is not made available.

Medical Indemnity Bill 2002

Introduction

The Committee dealt with this bill in *Alert Digest No. 15 of 2002*, in which it made various comments. The Minister for Health and Ageing has responded to those comments in a letter dated 10 December 2002. A copy of the letter is attached to this report. An extract from the *Alert Digest* and relevant parts of the Minister's response are discussed below.

Extract from Alert Digest No. 15 of 2002

This bill was introduced into the House of Representatives on 13 November 2002 by the Minister representing the Minister for Health and Ageing. [Portfolio responsibility: Health and Ageing]

Part of a package of four bills to establish a framework for medical indemnity insurance, the bill provides for the incurred but not reported (IBNR) liability indemnity scheme. Under the scheme the Government will assume responsibility for any unfunded IBNR liabilities of medical defence organisations (MDOs). The scheme will allow members of MDOs with unfunded IBNR liabilities to fund these liabilities over time, through a levy.

The bill also provides for:

- a High Cost Claims Scheme to assist with the cost of large claims, thereby ensuring that MDOs pay out less on big claims and are able to reduce the amount of reinsurance they have to purchase; and
- the introduction of premium subsidies for certain groups of doctors who face the most serious premium affordability problems relative to their peers – obstetricians, neurosurgeons and procedural GPs;

and contains a regulation making power.

Strict liability
Subclauses 42(6), 45(4), 46(3), 47(3), 69(6), 73(4) and 74(3)

Various of the offences to be created by this bill are to be offences of strict liability – see subclauses 42(6), 45(4), 46(3), 47(3), 69(6), 73(4) and 74(3). In each case, there will be no need for the prosecution to prove any fault element on the part of the accused. However, in each case the relevant offence is very much of a regulatory nature, such as a failure to provide information, a failure to keep records, or a failure to pay money, which the Committee has previously been prepared to accept as reasonable circumstances for the imposition of strict criminal liability.

Nevertheless, the Committee would appreciate further advice on the need in these cases for strict liability, which removes from the offences the traditional element of intent. In particular, the advice should address whether strict liability is fair in the circumstances in which it is imposed. For instance, the practicalities of the offence under subclause 74(3), which applies to a failure to notify a specified change in circumstances, are that the person affected may have attempted to comply but did not in fact manage to do so because of, say, the vagaries of the postal system. Similar practical questions may arise in relation to the other offence provisions. Thus, strict liability may be acceptable in the context of a failure to comply with a request only where the receipt of a request is capable of verification, such as certified mail or personal service.

The Committee, therefore, **seeks the Minister's advice** on this aspect of the bill.

Pending the Minister's advice, the Committee draws Senators' attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.

Relevant extract from the response from the Minister

> Thank you for your letter of 5 December 2002 concerning comments in the Scrutiny of Bills Alert Digest No. 15 of 2002 regarding the Medical Indemnity Bill 2002.
>
> Through the process of developing this legislation the need for strict liability in the provisions of the Medical Indemnity Bill 2002 was identified as a necessary enforcement measure to ensure compliance with the requirements in the Bill. I note that the Committee has accepted in the past that the offences of the type included in this Bill are "reasonable circumstances for the imposition of strict criminal liability."

Officers of my Department sought advice from the Attorney-General's Department on the appropriate offence provisions to be included in this legislation for measures of this type, and were advised that the most appropriate approach to providing for defences in relation to the strict liability provisions was to rely upon the specific defences contained in the Criminal Code, rather than include the defence of 'reasonable excuse' in the legislation itself.

In terms of fairness and of the practical issue the Committee has raised in relation to the efficacy of the postal system, whilst there appears to be a remote possibility that such things might cause difficulties for a small number of people, my Department is to undertake a thorough communications program to ensure that the doctors affected by these provisions have information on their rights and responsibilities under the arrangements set out in the Bill.

In addition, as I am sure the Committee has noted, the provisions providing for strict liability offences, such as sections 72, 73 and 74 include the capacity for the relevant individual to provide the necessary notification within 28 days. I consider that 28 days is more than sufficient to provide for compliance with the requirements set out in the Bill.

In order for the arrangements set out in this Bill to operate effectively and appropriately, strict liability offences were deemed appropriate in these circumstances. The Minister for Justice and Customs has confirmed that the offence and penalty provisions in this Bill are consistent with Commonwealth criminal law policy.

The Committee thanks the Minister for this prompt response.

Jan McLucas
Chair

ATTORNEY-GENERAL
THE HON. DARYL WILLIAMS AM QC MP

Min No.02/217020 ISL MC

Senator Barney Cooney
Chairman
Senate Standing Committee for the
Scrutiny of Bills
SG 49
Parliament House
CANBERRA ACT 2600

- 4 JUN 2002

Dear Senator Cooney

I refer to a letter of 21 March 2001 from the Secretary of the Senate Standing Committee for the Scrutiny of Bills. The letter draws the attention of my office to the Committee's comments contained in the Scrutiny of Bills Alert Digest No.3 of 2002 concerning the *Copyright Amendment (Parallel Importation) Bill 2002* (the Bill).

The Committee seeks my confirmation that no person will be disadvantaged by the retrospective commencement of the amendments proposed by items 1-3, 5 and 7 of Schedule 3 of the Bill. I note, that these amendments are technical in nature, and designed to correct drafting errors in the *Copyright Amendment (Digital Agenda) Act 2000*. I will address each item in turn.

Items 1 and 2 of Schedule 3 of the Bill amend the *Copyright Act 1968* by omitting the term 'effective' from the definition of circumvention device and circumvention service respectively. The definitions of circumvention device and circumvention service in section 10(1) of the Copyright Act refer to 'facilitating the circumvention of an effective technological protection measure'. The definition of technological protection measure in section 10(1) of the Copyright Act however does not include the word 'effective'. The purpose of this amendment is to ensure that there is consistency between the definition of circumvention device, circumvention service and technological protection measure. The amendment would not operate to the disadvantage of any person as the word 'effective' is superfluous and its removal does not affect the intended operation of the Copyright Act.

Item 3 of Schedule 3 of the Bill amends the definition of 'technological protection measure' in section 10(1) of the Copyright Act by substituting the word 'licensee' with 'exclusive licensee'. The purpose of the amendment is to ensure that there is consistency between the definition of technological protection measure and sections 116A and 132 of the Copyright Act. Sections 116A and 132 provide for civil remedies and criminal sanctions against the manufacture of, and commercial dealing in, circumvention devices and services used to circumvent technological protection measures. At the time of the passage of the Digital Agenda Act amendments were made to narrow the class of persons who could provide

permission to undertake such proscribed activities. This was achieved by substituting the word 'licensee' with 'exclusive licensee' in sections 116A and 132.

The purpose of the amendment was to strengthen the enforcement provisions by preventing persons who had little or no commercial interest in the protection of copyright material (such as general 'licensees' as opposed to 'exclusive licensees') from granting permission to undertake the proscribed activities. In implementing the amendment a drafting error was made as the reference to 'licensee' in the definition of technological protection measure was not similarly amended. Item 3 of Schedule 3 of the Bill corrects this drafting error. It is highly unlikely that this amendment will operate to the disadvantage of any person.

Item 5 of Schedule 3 of the Bill is a technical amendment to correct a misdescription in the Digital Agenda Act. The amendment repeats the intended amendment with the correct reference to the words to be omitted. It replaces the words 'for the making, by reprographic reproduction, of copies of documents', which currently appear in section 39A of the Copyright Act, with the words 'including computers'. Section 39A provides that if a person makes an infringing copy of a work on a machine for the making, by reprographic reproduction, of copies of documents, on a machine provided by a library or archives and there is affixed to, or in close proximity to, the machine, a prescribed notice neither the body administering the library or archives nor the officer in charge of the library or archives shall be taken to have authorised the making of the infringing copy by reason only that the copy was made on that machine.

The amendment will enable the defence provided under section 39A to apply to copies made on library computers. Technically, this amendment does extend the protection of libraries in respect to infringing copies made on computers, however it is unlikely that any person (ie copyright owner) would be disadvantaged by its operation. It was widely understood amongst libraries and copyright owners at the time of the passage of the Digital Agenda reforms that section 39A would be amended so as to apply to copies made on library computers. Section 39A does not provide an absolute defence to the authorisation liability of libraries and archives. A person or library is still liable for infringement if the criteria for 'authorisation' are satisfied.

Item 7 of Schedule 3 of the Bill is a technical amendment that substitutes 'copy' with 'reproduction' in paragraphs (b) and (c) of section 53 of the Copyright Act. The amendment ensures consistency with amendments made in the Digital Agenda Act which substituted 'reproduction' for 'copy' in the provisions to which paragraphs 53(b) and (c) refer. Consequently, item 7 of Schedule 3 of the Bill does not operate to disadvantage any person.

I trust this responds to the concerns raised by the Committee.

Yours sincerely

Daryl Williams

DARYL WILLIAMS

MINISTER FOR EDUCATION, SCIENCE AND TRAINING
THE HON DR BRENDAN NELSON MP

- 5 DEC 2002

Mr David Creed
Secretary
Standing Committee for the Scrutiny of Bills
The Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Creed

Thank you for your letters of 26 September and 17 October concerning the *Higher Education Funding Amendment Bill 2002* and comments made in the Scrutiny of Bills Alert Digests (numbers 10 and 11 of 2002). Please find below my response to each of the comments made.

Non-reviewable decisions by Minister – subsections 98A(1)(c) and (d) and section 98JA

Although decisions made under subsection 98A(1)(c) and (d) and section 98JA are not subject to a merits review by the Administrative Appeals Tribunal, they are not outside the scope of all review mechanisms. The *Administrative Decisions (Judicial Review) Act 1977* provides for judicial review of decisions made under an enactment. Decisions made under these sections would, therefore, be reviewable under that Act.

Incorporation of external material as in force from time to time – subsection 98A(1) - proposed new definition of "National Protocols"

The National Protocols for Higher Education Approval Processes are endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). One of the aims of the Protocols is to achieve consistency across all states and territories in relation to the regulation of higher education. It would be inconsistent with this goal for the Commonwealth to adopt criteria which were different to that being applied by the states and territories. For that reason, it is preferable that the National Protocols be incorporated by reference, rather than set out in the legislation, so that the Commonwealth can act consistently with whatever changes MCEETYA makes to the National Protocols.

I trust my comments will address any concerns the Committee had.

Yours sincerely

BRENDAN NELSON

Parliament House, Canberra ACT 2600 Tel: (02) 6277 7460 Fax (02) 6273 4116

SENATOR THE HON KAY PATTERSON
Minister for Health and Ageing

Senator Jan McLucas
Chair
Senate Standing Committee for the Scrutiny of Bills
Parliament House
CANBERRA ACT 2600

Dear Senator McLucas,

Thank you for your letter of 5 December 2002 concerning comments in the Scrutiny of Bills Alert Digest No. 15 of 2002 regarding the Medical Indemnity Bill 2002.

Through the process of developing this legislation the need for strict liability in the provisions of the Medical Indemnity Bill 2002 was identified as a necessary enforcement measure to ensure compliance with the requirements in the Bill. I note that the Committee has accepted in the past that the offences of the type included in this Bill are "reasonable circumstances for the imposition of strict criminal liability."

Officers of my Department sought advice from the Attorney-General's Department on the appropriate offence provisions to be included in this legislation for measures of this type, and were advised that the most appropriate approach to providing for defences in relation to the strict liability provisions was to rely upon the specific defences contained in the Criminal Code, rather than include the defence of 'reasonable excuse' in the legislation itself.

In terms of fairness and of the practical issue the Committee has raised in relation to the efficacy of the postal system, whilst there appears to be a remote possibility that such things might cause difficulties for a small number of people, my Department is to undertake a thorough communications program to ensure that the doctors affected by these provisions have information on their rights and responsibilities under the arrangements set out in the Bill.

In addition, as I am sure the Committee has noted, the provisions providing for strict liability offences, such as sections 72, 73 and 74 include the capacity for the relevant individual to provide the necessary notification within 28 days. I consider that 28 days is more than sufficient to provide for compliance with the requirements set out in the Bill.

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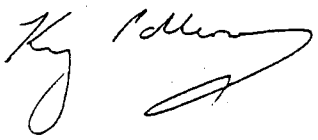
In order for the arrangements set out in this Bill to operate effectively and appropriately, strict liability offences were deemed appropriate in these circumstances. The Minister for Justice and Customs has confirmed that the offence and penalty provisions in this Bill are consistent with Commonwealth criminal law policy.

Yours sincerely,



Senator Kay Patterson