

ADDITIONAL COMMENTS BY THE AUSTRALIAN DEMOCRATS

1.1 The Australian Democrats share many of the concerns raised by the Law Council, in particular the operation of the presumptions and absolute liability that ‘effectively shifts the burden from proving guilt to establishing innocence.’ This represents a marked departure from current practice and dramatically undermines the presumption of innocence as set out in article 14(2) of the International Covenant on Civil and Political Rights (ICCPR).

1.2 The Australian Democrats also note we are sympathetic to many of the concerns raised by the Families and Friends for Drug Law Reform (FFDLR), in particular, concerns relating to clause 308.1 of the Bill. FFDLR contends that this provision is aimed only at drug users and creates a serious offence out of the possession of even ‘small quantities of drugs.’ In highlighting this issue, the Democrats note that the MCOCC’s 1998 report on Serious Drug Offences did not contain a simple possession offence.

1.3 Furthermore, while there are provisions for the continued operation of State and Territory laws, in proposed sections 308.1 and 300.4, there appears to be no guarantee that an individual who commits an offence in a jurisdiction that allows for such an offence to be expiated on payment of a fine will not be proceeded against under Commonwealth law.

1.4 The Australian Democrats agree with the evidence as presented, however, we reserve our judgement on the Bill contingent with the committee's recommendation and the resolution of the matters outlined above.

Senator Natasha Stott Despoja
Australian Democrats

