

# Monitor 5 of 2020 - Committee correspondence

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23 April 2020

Senator James Paterson  
Chair  
Parliamentary Joint Committee on Corporations and Financial Services  
Parliament House  
CANBERRA ACT 2600

via email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

cc: Senator the Hon Jane Hume, Assistant Minister for Superannuation,  
Financial Services and Financial Technology  
[Senator.Hume@aph.gov.au](mailto:Senator.Hume@aph.gov.au)

Dear Chair

**ASIC Corporations (Conditional Costs Schemes) Instrument 2020/38 [F2020L00034]  
ASIC Credit (Litigation Funding—Exclusion) Instrument 2020/37 [F2020L00035]**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate. 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.

Noting that the above instruments appear to contain significant policy matters relating to the regulation of litigation funding schemes, and the Attorney-General has foreshadowed that your committee will be asked to inquire into this matter, the committee has resolved to draw these instruments to the attention of your committee pursuant to standing order 23(4).

Should your committee decide to further examine these instruments, I note the time for lodging a disallowance notice in the Senate expires on 13 August 2020.

To assist in your committee's consideration of this matter, please find attached a copy of the instruments, together with the relevant explanatory statements. These documents are also published on the Federal Register of Legislation at:

- <https://www.legislation.gov.au/Details/F2020L00034>; and
- <https://www.legislation.gov.au/Details/F2020L00035>.

I also draw to your attention correspondence between the committee and the Assistant Minister for Superannuation, Financial Services and Financial Technology in relation to these instruments published at:

- [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Scrutiny\\_of\\_Delegated\\_Legislation/Index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Delegated_Legislation/Index).

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to [sdlc.sen@aph.gov.au](mailto:sdlc.sen@aph.gov.au).

Yours sincerely

**Senator the Hon Concetta Fierravanti-Wells**  
**Chair**  
**Senate Standing Committee for the Scrutiny of Delegated Legislation**



23 April 2020

Senator Dean Smith

Chair

Joint Select Committee on Implementation of the National Redress Scheme

Parliament House

CANBERRA ACT 2600

Via email: [redress@aph.gov.au](mailto:redress@aph.gov.au)

CC: Senator the Hon Anne Ruston, Minister for Families and Social Services  
[senator.ruston@aph.gov.au](mailto:senator.ruston@aph.gov.au)

Dear Chair

**National Redress Scheme for Institutional Child Sexual Abuse Amendment (2019 Measures No. 1) Rules 2019 [F2019L01491]**

**National Redress Scheme for Institutional Child Sexual Abuse Amendment (2020 Measures No. 1) Rules 2020 [F2020L00096]**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Noting that your committee has a broad remit to consider matters relating to the operation of the National Redress Scheme for Institutional Child Sexual Abuse, the Scrutiny of Delegated Legislation Committee has resolved to draw the above instruments to the attention of your committee.

Subsection 111(1) of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (the Act) defines 'State institution' for the purposes of the National Redress Scheme. Subsection 111(2) provides that the rules may prescribe that an institution is not a State institution, despite the statutory definition.

Pursuant to subsection 111(2) of the Act, the instruments exclude the following independent schools in New South Wales and Queensland from the definition of 'State institution':

- Brisbane Girls Grammar School;
- Brisbane Grammar School;
- Ipswich Girls' Grammar School, including Ipswich Junior Grammar School;
- Ipswich Grammar School;

- The King's School, Parramatta;
- Newington College;
- Rockhampton Girls Grammar School;
- The Rockhampton Grammar School;
- Sydney Grammar School;
- Toowoomba Grammar School; and
- Townsville Grammar School.

The exclusion of these schools from the definition of 'State institution' means that they can only participate in the National Redress Scheme if the minister is satisfied that they have agreed to join the scheme as non-government institutions. This exclusion may therefore delay access to the National Redress Scheme for individuals seeking to apply for redress from these institutions as part of the scheme.

As it is beyond the scope of the Scrutiny of Delegated Legislation Committee's role to consider the policy implications of this exclusion, the committee draws this matter to the attention of your committee.

To assist your committee in its consideration of this matter, please find attached a copy of the instruments and the associated explanatory statements. These documents are also published on the Federal Register of Legislation at <https://www.legislation.gov.au/>.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to [sdlc.sen@aph.gov.au](mailto:sdlc.sen@aph.gov.au).

Yours sincerely

**Senator the Hon Concetta Fierravanti-Wells**  
**Chair**  
**Senate Standing Committee for the Scrutiny of Delegated Legislation**



23 April 2020

Senator Katy Gallagher  
Chair  
Senate Select Committee on COVID-19  
Parliament House  
CANBERRA ACT 2600

via email: [covid.sen@aph.gov.au](mailto:covid.sen@aph.gov.au)

cc: Senator the Hon Anne Ruston, Minister for Families and Social Services,  
[dlos@dss.gov.au](mailto:dlos@dss.gov.au)

Dear Chair

**Social Security (Coronavirus Economic Response—2020 Measures No. 1)  
Determination 2020 [F2020L00310]**

**Social Security (Coronavirus Economic Response—2020 Measures No. 2)  
Determination 2020 [F2020L00311]**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate. 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.

Noting that the above instruments appear to contain significant policy matters relating to the payment of, and qualifications for, social security payments and supplements in response to the COVID-19 outbreak, the committee has determined that the instruments engage standing order 23(4) and accordingly has resolved to draw the instruments to the attention of your committee.

Should your committee decide to further examine these instruments, I note the time for lodging a disallowance notice expires on 17 September 2020.

To assist in your committee's consideration of this matter, please find attached a copy of the instruments, together with the relevant explanatory statements. These documents are also published on the Federal Register of Legislation at:

- <https://www.legislation.gov.au/Details/F2020L00310>; and
- <https://www.legislation.gov.au/Details/F2020L00311>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to [sdlc.sen@aph.gov.au](mailto:sdlc.sen@aph.gov.au).

Yours sincerely

**Senator the Hon Concetta Fierravanti-Wells**  
**Chair**  
**Senate Standing Committee for the Scrutiny of Delegated Legislation**





23 April 2020

Senator the Hon James McGrath  
Chair  
Senate Education and Employment Legislation Committee  
Parliament House  
CANBERRA ACT 2600

via email: [eec.sen@aph.gov.au](mailto:eec.sen@aph.gov.au)

cc: Senator the Hon Mathias Cormann, Minister for Finance,  
[financeminister@finance.gov.au](mailto:financeminister@finance.gov.au)

The Hon Dan Tehan MP, Minister for Education,  
[minister@education.gov.au](mailto:minister@education.gov.au)

Department of Finance, [FFSPRegs@finance.gov.au](mailto:FFSPRegs@finance.gov.au)

Dear Chair,

### **Legislative instruments specifying Commonwealth expenditure**

I write on behalf of the Senate Standing Committee for the Scrutiny of Delegated Legislation which assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against the scrutiny principles outlined in Senate standing order 23.

Since 4 December 2019, standing order 23(4) has required the committee to scrutinise each instrument to determine whether the attention of the Senate should be drawn to the instrument on the ground that it raises significant issues or otherwise gives rise to issues that are likely to be of interest to the Senate.

The instrument listed in the table below, in combination with its enabling Act, authorises the Commonwealth to spend public money on the identified grants or programs. The committee considers that the scrutiny of such instruments is an essential aspect of parliamentary scrutiny and control of Commonwealth expenditure. Noting this, the committee has determined that the instrument listed below engages standing order 23(4), and accordingly has resolved to draw it to the attention of your committee:

Instrument	Grant/Program	Amount	Description
<b>Financial Framework (Supplementary Powers) Amendment (Education, Skills and Employment Measures No. 1) Regulations 2020 [F2020L00233]</b>	Mid-Career Checkpoint	\$75 million over four years from 2019-20	The program will provide support, career guidance and training to persons who have been absent from work due to caring responsibilities to assist those persons to return to or remain in work.
	Online resources and professional development for mathematics teachers	\$9.5 million over four years from 2019-20	Funding will be provided to: <ul style="list-style-type: none"> <li>• establish and deliver online courses to provide professional education to primary and secondary school mathematics teachers; and</li> <li>• establish and maintain an online mathematics hub.</li> </ul>

I note that under standing order 25(2)(a) your committee is empowered to conduct own-motion inquiries into legislative instruments which relate to the portfolios allocated to your committee, although there is no requirement to do so. Should your committee decide to further examine this instrument, I note that the time for lodging a disallowance notice expires on 16 September 2020.

Further details about the instrument are published on the Federal Register of Legislation at <https://www.legislation.gov.au/Details/F2020L00233>.

Please note that in the interests of transparency this correspondence will be published on the Scrutiny of Delegated Legislation Committee's website.

Should you have any questions, please contact the committee's secretariat on (02) 6277 3066, or by email to [sdlc.sen@aph.gov.au](mailto:sdlc.sen@aph.gov.au).

Yours sincerely,

**Senator the Hon Concetta Fierravanti-Wells**  
**Chair**  
**Senate Standing Committee for the Scrutiny of Delegated Legislation**



23 April 2020

Senator the Hon Jane Hume  
Assistant Minister for Superannuation, Financial Services and Financial Technology  
Parliament House  
CANBERRA ACT 2600

Via email: [Senator.Hume@aph.gov.au](mailto:Senator.Hume@aph.gov.au)  
CC: [Shelby.Brinkley@treasury.gov.au](mailto:Shelby.Brinkley@treasury.gov.au)

Dear Assistant Minister,

**ASIC Corporations (Conditional Costs Schemes) Instrument 2020/38 [F2020L00034]**

**ASIC Credit (Litigation Funding—Exclusion) Instrument 2020/37 [F2020L00035]**

Thank you for your response of 27 March 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instruments. The committee considered your response at its private meeting on 22 April 2020. On the basis of your advice, the committee has concluded its examination of the instrument.

While the committee makes no further comment about the technical scrutiny issues raised by the instruments, the committee considers that the instruments relate to significant policy matters that exceed this committee's remit. Accordingly, the committee has resolved to draw the instruments to the attention of the Senate and the Joint Standing Committee on Corporations and Financial Services, pursuant to Senate standing order 23(4).

In the interests of transparency, I note that this correspondence and future correspondence drawing the instruments to the attention of the Senate will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,

**Senator the Hon Concetta Fierravanti-Wells**  
**Chair**  
**Senate Standing Committee for the Scrutiny of Delegated Legislation**