



PARLIAMENT of AUSTRALIA  
HOUSE of REPRESENTATIVES

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11 November 2014

Ms Sophie Dunstone  
Secretary  
Senate Legal and Constitutional Affairs Legislation Committee

Dear Ms Dunstone

Thank you for your letter of 4 November inviting the Department of the House of Representatives to make a submission to the Committee's inquiry into the Acts and Instruments (Framework Reform) Bill 2014.

A preliminary examination of the bill in the short time available before the required date for submission suggests that the bill does not infringe on the ability of the Parliament to fulfil its legislative and scrutiny roles. However, I look forward to the results of the Committee's more considered examination of the bill.

I note that proposed new Chapter 2, Part 2, Division 3, section 15V of the Legislative Instruments Act, as set out in Schedule 1, Part 2 of the bill, proposes to give the First Parliamentary Counsel the ability to make a range of editorial changes to Acts and instruments in the course of preparing compilations of Acts or instruments.

Proposed new section 15V(6) specifically prohibits the First Parliamentary Counsel from making a change to an Act or instrument that would change the effect of the Act or instrument, and proposed new section 15X clearly defines editorial change. These provisions would appear to ensure that no changes of a substantive nature could be effected to legislation without passing through the established parliamentary processes.

In terms of the Parliament's role in correcting errors in bills before the bills are presented for assent, the bill does not appear to have any effect on current practice. At present, if an error is discovered in a bill before Parliament the usual practice is first to determine whether the required correction is editorial or substantive. In the case of editorial changes the Deputy Speaker or Deputy President authorises the responsible department to make the necessary change in preparing the bill for transmission to the other House or for assent by the Governor-General. In the case of errors of a substantive nature corrections can be made by an amendment during passage of the bill or by a subsequent amending Act. As the bill gives the First Parliamentary Counsel authority to make editorial changes only to Acts and compilations of Acts and not to bills before the Parliament, the role of the Parliament and the parliamentary departments would appear to remain unchanged.

The bill makes a number of changes to the provisions relating to the disallowance process but these appear to be confined to modernisation of language, clarification to avoid possible confusion and adjustments to enable easier access to information. There appear to be no substantive changes to the disallowance process for legislative instruments.

Thank you for the opportunity to contribute to the inquiry. I look forward to the Committee's report following its detailed examination of the bill.

Yours sincerely

DAVID ELDER  
Clerk of the House