



Australian Government

**Professor Rosalind Croucher
President**

Australian Law Reform Commission

Ms Fiona Bowring-Greer
Committee Secretary
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

6 November 2012

Submission to Inquiry into the Regulatory Powers (Standard Provisions) Bill 2012

The Australian Law Reform Commission (ALRC) welcomes the opportunity to make a submission to this Inquiry by the Parliamentary Joint Committee on Law Enforcement.

In 2003, the ALRC released its report *Principled Regulation: Federal Civil and Administrative Penalties in Australia* (ALRC 95). In that report, the ALRC made a range of recommendations to introduce a greater degree of consistency, in relation to penalties, across the various Commonwealth regulatory schemes.

A key recommendation was that ‘A Regulatory Contraventions Statute of general application should be enacted to cover various aspects of the law and procedure governing non-criminal contraventions of federal law’ in accordance with the recommendations in the report (ALRC 95, Recommendation 6–7).

The ALRC recognised that, although such a statute was intended to provide a consistent basis for certain fundamental provisions relating to regulatory law, the demands of a particular regulatory or penalty scheme would entitle Parliament to diverge from the default provisions contained in the Regulatory Contraventions Statute.

The Regulatory Powers (Standard Provisions) Bill 2012 has the similar aim of providing more consistency across Commonwealth law in respect of civil and administrative penalties and other matters not dealt with by ALRC 95, including the monitoring and investigation powers of regulatory agencies. Rather than provide default provisions, however, the Bill would only apply to regulatory schemes that trigger its provisions through amendment of existing legislation or the introduction of new legislation.

The ALRC’s recommendations in ALRC 95 significantly influenced the development of the Attorney-General’s Department publication, *A Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers* (2004). The Guide aimed to assist in the framing of proposed criminal offences, civil penalties and certain other enforcement provisions intended to become part of Commonwealth law. Many of the provisions in the Guide were based on principles discussed in

Australian Law Reform Commission
Level 40, MLC Centre
19 Martin Place
Sydney NSW 2000

Postal Address:
GPO Box 3708
Sydney NSW 2001

Tel (02) 8238 6333
Fax (02) 8238 6363

Web www.alrc.gov.au
Email info@alrc.gov.au

ALRC 95 and, in many instances, the Guide referred readers directly to the ALRC report. The Guide, in turn, would have been one influence in the drafting of the current Bill.

Many of the provisions of the Bill—for example, in relation to infringement notice schemes—and related Drafting Directions issued by First Parliamentary Counsel—for example, in relation to the accountability of authorised persons—are entirely consistent with recommendations made in ALRC 95.

In conclusion, the Bill in its current form does not raise any concerns for the ALRC and is likely to contribute to clearer and more consistent Commonwealth regulatory law.

We hope this has been of assistance to you. If you require any further information please do not hesitate to contact me on .

Yours sincerely,