SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 2

Program: 1.3

Question No. AE15/031

Senator Wright asked the following question at the hearing on 24 February 2015:

Senator WRIGHT: Thank you. My last question is about the maximum penalty for offences of failing to comply with a summons, failing to be sworn and answer questions and contempt of the tribunal under the bill. The penalties have been doubled for both the MRT and the RRT and the existing AAT from six months to 12 months. This doubling of penalties interests me because similar offences of non-compliance in Commonwealth legislation for courts, tribunals and royal commissions typically attract maximum penalties of six months—so it has actually doubled those—and that is broadly consistent with state and territory legislation as well. Attorney, it is a policy issue, I suppose, but why has the change occurred? Has there been a rapid increase in the number of these offences occurring in recent times which would warrant a higher penalty as a deterrent, for instance? Why the change and why is it at odds with the common practice in relation to other states, territories and Commonwealth courts?

The answer to the honourable senator's question is as follows:

There is some variation in penalties for offences of a similar nature across the AAT, MRT-RRT and the SSAT. The Bill creates consistent penalties for similar offences.

The Bill aligns penalties with similar offences in relation to other courts and Commonwealth agencies. For example:

- breach of a Federal Court of Australia order (section 37AL of the *Federal Court of Australia Act 1976*) carries a penalty of 12 months, and

- providing false or misleading information, or false and misleading document, to a Commonwealth entity (sections 137.1 and 137.2 of the *Criminal Code Act 1995*) carries a penalty of 12 months.

There has not been an increase in the incidence of these offences. The penalties reflect the seriousness of conduct that undermines the Tribunal's statutory review function.