

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
OFFICE OF PARLIAMENTARY COUNSEL

**Question No. 229**

**Senator Ludwig asked the following question at the hearing on 14 February 2006:**

Regarding the statement that 'OPC is aware of a small number of cases in which, after a Bill was introduced, it was recognised that the Bill was not legally effective in a particular respect':

- a) Which Bills were recognised not to be legally effective?
- b) How many cases does this represent?
- c) For each case, could you indicate the reason that the Bill was not legally effective?
- d) How does this occur?

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

- a) Section 43 of the *National Water Commission Act 2004*.
- b) This represents one case.
- c) There is a concern that, if the section is read literally, it could mean that a person will be committing an offence of disclosure under section 43 even if that disclosure is in the course of performing a function or duty under the Act if the disclosure is not also required or permitted by law. We understand that the National Water Commission has received legal advice that it can take a practical approach to the release of information in the course of performing a function under the Act until the position can be rectified by an amendment of the Act.
- d) The occurred as a result of an error by the drafter that was not detected during checking of the Bill within OPC.