

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

Output 1.2

Question No. 195

Senator Stott-Despoja asked the following question at the hearing on 24 May 2007:

- a) What are the criteria on which the Attorney-General decides he will refer a case to the Classification Review Board?
- b) On what grounds did the Attorney-General decide to refer *The Peaceful Pill Handbook* by Philip Nitschke (a euthanasia book) to the Classification Review Board?

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

a) Section 42(2) of the *Classification (Publications, Films and Computer Games) Act 1995* provides that if a participating Minister asks the Attorney-General in writing to apply for a review then he must do so.

Section 42 also gives the Attorney-General a general discretion to seek a review.

b) In September 2006, officers from the Australian Customs Service seized copies of the publication *The Peaceful Pill Handbook* on the basis that it promoted, counselled or instructed in how to commit suicide and was suspected to be a prohibited import under Regulation 3AA(2)(c) of the *Customs (Prohibited Imports) Regulations 1956*. In December 2006 the Classification Board classified the publication 'Category 1 Restricted' under the *Classification (Publications, Films and Computer Games) Act 1995*.

As a result of these decisions and action taken there was an apparent anomaly in the application of different provisions of two separate pieces of Commonwealth legislation. The result was that the publication was legally available within Australia but it could not be legally imported into Australia.

Both the Classification Act and the Customs Regulations fall within the portfolio responsibilities of the Attorney-General. A review under the Classification Act was the appropriate mechanism for addressing the perceived inconsistency in the application of the two pieces of legislation.