

From: [REDACTED]
To: [REDACTED]
Subject: Strict and Absolute Liability Offence .// Committee : Legal and Social Issues .

The Hon Wendy Lovell

Parliament House

Dear Wendy ,

I write to you with regard to your role as Committee person : Legal and Social Issues . If this correspondence appears circuitous or disjointed , please understand I am NOT a Lawyer . In the Law a thing called Mens Rea or Intent exists ." Mens Rea" is a Common Law right we all have , which kind of means that in a Criminal Matter the Prosecution must prove " Beyond Reasonable Doubt " that the accused knew the thing he/she did was a Crime and Intended to do it . Mens Rea means that a person should not be convicted for something that was an unintended consequence . The need to prove Intent is a high bar for the Prosecution to get over ; but not impossible , Police Prosecutions do it every day in our Courts .

Some Offences are Strict/Absolute Liability Offences . In Strict/Absolute Liability Offences the Prosecution need only prove that the alleged Offence took place , not that the Accused knew the act was an Offence, or Intended to commit an Offence . Statutory Rape is a Liability Offence , and much more commonly so is Speeding . The use of Liability Offence is , I'm told , a relatively recent development . There is an inherent unfairness in Strict Liability as it overrides any Common Law Defence of Intent .

The Victorian Dept of Agriculture is now saying that a Section 9 and Section 10 Offence under the Protection of Cruelty to Animal Act 1986 is a Strict Liability Offence . The reasoning for this , admitted by the Dept , is that such Offences are too hard to prove otherwise .

I hope you can encourage the Committee for Legal and Social Issues to examine in depth the use of Strict/Absolute* Offences in Victoria , and where Strict Liability is warranted and when it is not . This will become contentious when the Work Place Safety Regulations come online . My concern , is off course with the POCTA Regulations .

Yours Respectfully,

Anthony Gleeson

[REDACTED]
[REDACTED]

* I use strict Strict/Absolute (Liability) as the same thing - there is a difference - I leave it to Lawyers .