

**s. 22(1)(a)(ii)**

---

**From:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Sent:** Tuesday, 4 June 2019 5:24 PM  
**To:** s. 22(1)(a)(ii); s. 22(1)(a)(ii)  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Thanks both for your time and effort with this.

Given the status of this measure – particularly Julie’s advice that she’ll brief against pursuing this measure – let’s park it for not but pick this back up if the measure gets legs.

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 4 June 2019 11:43 AM  
**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @agriculture.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

s. 22(1)(a)(ii) as requested, my document re a first pass analysis to support any initial team discussion of additional things we could mandate MUST be in the LI is called ‘Initial thoughts on potential assessor scheme details for primary leg May 2019 vs 1’ and is located [here](#).

s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 4 June 2019 11:38 AM  
**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Cc:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Not yet – its on my list to look at today.

The document link was in a different follow up email - located [here](#).

Cheers  
s. 22(1)(a)(ii)

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Tuesday, 4 June 2019 11:31 AM  
**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @agriculture.gov.au>  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Thanks s. 22(1)(a)(ii)

Did you have a look at s. 22(1)(a)(ii) document (I can’t see the link – s. 22(1)(a)(ii) can you please re-send)

Thanks  
s. 22(1)(a)

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Monday, 3 June 2019 12:30 PM

**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

My 2 cents – I concur with s. 22(1)(a)(ii) thoughts below.

---

**From:** s. 22(1)(a)(ii)  
**Sent:** Thursday, 30 May 2019 8:31 AM  
**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Cc:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>  
**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Hi <sup>s. 22(1)(a)</sup>

Some thoughts on you questions etc:

### Offence

While not clear, I did get the impression that Scrutiny's concern was not so much that the offence being in regulations, but that such an offences was for a scheme that is 'ill defined' in the primary legislation. To me it largely seems to get discussed as a means of highlighting the desire to have more detail of the scheme itself in the Act-the offence appears to only be a secondary issue (if it was an issue at all rather than just context– pity their thinking wasn't set out more clearly though).

As to arguing that the offence will help dissuade inappropriate behaviour ('conflict of interest'/industry capture), if we drop the aggravated offence bit like your last thoughts, then there is no real difference in potential penalty to what we already allow regs to set. **s. 47C(1)**

### Conflict of interest

You also noted Scrutiny's passing point that conflict of interest measures might be something that the primary legislation could require the legislative instrument to include. I'm not familiar with any regulator who has this set in leg rather than operation, but perhaps there is something (I'll start looking).

- **s. 47C(1)**

As to Scutiny's point '*The committee considers that it may be appropriate for the bill to be amended to include at least high-level guidance as to the requirements of the proposed accreditation scheme*' **s. 47C(1)**

s. 47C(1)

s. 47C(1)

. We are at risk of drifting away from our original intent which was to just give a legislative basis to what APVMA already does operationally. It is not a 'major scheme' in that sense, and I think the previous response that APVMA is best place to determine this, and that there is a real need for APVMA to be able to tweek and fine tune the scheme without having to seeking primary leg amendments remains valid. s. 47C(1)

s. 22(1)(a)(ii) sometimes some initial discussions as a team can help us get a handle on what aspects we should focus on rather than doing a deep dive on every permutation. I did look at the reports and consider what we might do differently, but had reached a different interpretation that you of whether various issues were significant or not. Now that I know you views I can now look further in those directions.

Happy to discuss

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Agvet Chemicals Regulation Reform / Agvet Chemicals Branch/ Agvet Chemicals, Fisheries and Forestry Division / Department of Agriculture and Water Resources / GPO Box 858 Canberra ACT 2601  
ph s. 22(1)(a)(ii) , M.5.96

---

**From:** s. 22(1)(a)(ii)

**Sent:** Wednesday, 29 May 2019 4:55 PM

**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@agriculture.gov.au>

**Cc:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @agriculture.gov.au>

**Subject:** RE: Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Thanks s. 22(1)(a)(ii)

That Scrutiny mentioned putting offences in regulations (rather than primary legislation) at least three times when arguing that significant matters should be included in primary legislation (see point 1.3, and more importantly point 1.8 of Scrutiny Digest 13, as well as point 2.12 of Digest 14). This indicates to me that it is a significant matter for the committee.

s. 47C(1)

At any rate, as discussed, I also think we can argue that the offence will help dissuade inappropriate behaviour ('conflict of interest'/industry capture) which was a concern raised elsewhere about the Bill.

s. 47C(1)

My only real concern with including an offence provision is that scrutiny might arc up on the basis that the conditions of accreditation aren't defined and so the offence is somewhat open ended. We'll face the same argument when it comes time to do the regulations, but with less likelihood of extended parliamentary debate.

I'd be interested in your views.

The Scrutiny report also points to conflict of interest measures as something that the primary legislation could require the legislative instrument to include. **s. 47C(1)**

The Scrutiny report also mentions experience, insurance, data handling protocols and audit and compliance, **s. 47C(1)**

Point 2.8 of Scrutiny Digest 14 includes further argument from scrutiny about the type of things the Bill could contain (Scrutiny specifically uses the example of constraining the accredited assessor measure to persons with particular expertise or knowledge to do the assessment). **s. 47C(1)**

I think Scrutiny's 'final' view is best summed up at point 2.10 of Digest 14:

*The committee considers that it may be appropriate for the bill to be amended to include at least high-level guidance as to the requirements of the proposed accreditation scheme.*

An alternative approach to dealing with these measures would be to amend the explanatory material to explain the approach (effectively responding to Scrutiny's concerns that way).

Happy for your collective views.

Also on anything else that may address concerns raised through the legislation committee

**s. 47C(1)**

Cheers

s. 22(1)(a)

---

**From:** **s. 22(1)(a)(ii)**

**Sent:** Wednesday, 29 May 2019 11:10 AM

**To:** **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**@agriculture.gov.au>

**Cc:** **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)** @agriculture.gov.au>

**Subject:** Discussion of Scrutiny concern's re accredited assessors [SEC=UNCLASSIFIED]

Hi s. 22(1)(a)

You asked for links to discussion about penalties and consultation for accredited assessors. Please see below.

Scrutiny initial consideration is recorded in digest 13 of 2018 (which included a single noting mention of penalties as part of the context of a broader recommendation).

Scrutiny's subsequent consideration of minister response and final recommendation is in Digest 14 of 2018. The minister response did not dwell at all on penalties (and Scrutiny made no comment either, except that one of the recommendations again made the same contextual noting reference). The minister response did provide a lengthy argument to why there is no need to mandate consultation (I don't recall ALP or greens mentioning consultation as an issue in subsequent debate, I'll double check).

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Scrutiny\\_of\\_Bills/Scrutiny\\_Digest/2018](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Scrutiny_of_Bills/Scrutiny_Digest/2018)

The [Rural and Regional Affairs and Transport Legislation Committee](#) also considered the Bill. The report (in para 1.16) documented that the Scrutiny Committee ‘noted that enactment of proposed subsection 6G(4) would allow the regulations to prescribe penalties for offences’, but again appears to be in a context setting for Scrutiny’s more general concern about details of ‘significant regulatory schemes’ should be in primary leg (although text again gives impression that scrutiny appeared to devote more detail to consultation than this aspect). I also note that the stakeholders suggested remedies to conflict of interest summarised in para 3.36 (p27) of the report, **did not mention penalties** – instead it talked about limiting the scope to only ‘low-risk’ assessments and introducing robust management mechanisms (which I take to mean oversight/audit stuff). Interesting that stakeholders themselves did not share scrutiny’s concern re consultation (perhaps because stakeholders are familiar with APVMA practice of consulting on Lis).

# S. 47C(1)

Happy to discuss

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Agvet Chemicals Regulation Reform / Agvet Chemicals Branch/ Agvet Chemicals, Fisheries and Forestry Division / Department of Agriculture and Water Resources / GPO Box 858 Canberra ACT 2601

ph s. 22(1)(a)(ii) , M.5.96