



SCRUTINY OF ACTS AND  
REGULATIONS COMMITTEE

---

# **Report on the Legislation Reform (Repeals No. 3) Bill 2008**

Ordered to be Printed

By Authority. Government Printer for the State of Victoria.  
N° 97 Session 2006-08

**Parliament of Victoria, Australia**

**Scrutiny of Acts and Regulations  
Committee**

**Report on the Legislation Reform  
(Repeals No. 3) Bill 2008**

**ISBN 978 0 7311 3033 2**



## Scrutiny of Acts and Regulations Committee

**Members** Mr Carlo Carli MLA (Chairperson)  
Mr Ken Jasper MLA (Deputy Chairperson)  
Mr Colin Brooks MLA  
Mr Khalil Eideh MLC  
Mr Telmo Languiller MLA  
Mr Edward O'Donohue MLC  
Mrs Inga Peulich MLC  
Ms Jaala Pulford MLC  
Mr Ryan Smith MLA

**Staff** Mr Andrew Homer, Senior Legal Adviser  
Ms Helen Mason, Legal Adviser, Regulations  
Mr Simon Dinsbergs, Business Support Officer  
Ms Sonya Caruana, Office Manager

**Human Rights Consultant** Associate Professor Jeremy Gans

**Address** Parliament House, Spring Street  
MELBOURNE VIC 3002

**Telephone** (03) 8682 2891

**Facsimile** (03) 8682 2858

**Email** [andrew.homer@parliament.vic.gov.au](mailto:andrew.homer@parliament.vic.gov.au)

**Internet** [www.parliament.vic.gov.au/sarc](http://www.parliament.vic.gov.au/sarc)



# Contents

---

Committee Membership	iii
Referral to Committee	vi
Terms of Reference	vii
Recommendations	viii
Legislation Reform (Repeals No. 3) Bill 2008	1
<b>Appendices</b>	
1 – Certificate of Chief Parliamentary Counsel	7
2 – Unproclaimed Acts	9

## Referral to Committee

---

### Extracted from the Votes and Proceedings of the Legislative Assembly

**No 68 — Thursday, 17 April 2008**

- 16 LEGISLATION REFORM (REPEALS No. 3) BILL 2008** — Motion made, by leave, and question — That the proposals contained in the Legislation Reform (Repeals No. 3) Bill 2008 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report (*Mr Batchelor*) — put and agreed to.

# Terms of Reference

---

## ***Parliamentary Committees Act 2003, section 17***

The functions of the Scrutiny of Acts and Regulations Committee are –

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
  - (i) trespasses unduly upon rights or freedoms;
  - (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
  - (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
  - (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *Information Privacy Act 2000*;
  - (v) unduly requires or authorises acts or practices that may have an adverse effect on privacy of health information within the meaning of the *Health Records Act 2001*;
  - (vi) inappropriately delegates legislative power;
  - (vii) insufficiently subjects the exercise of legislative power to parliamentary scrutiny;
  - (viii) is incompatible with the human rights set out in the Charter of Human Rights and Responsibilities;
- (b) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament –
  - (i) as to whether the Bill directly or indirectly repeals, alters or varies section 85 of the *Constitution Act 1975*, or raises an issue as to the jurisdiction of the Supreme Court;
  - (ii) if a Bill repeals, alters or varies section 85 of the *Constitution Act 1975*, whether this is in all the circumstances appropriate and desirable;
  - (iii) if a Bill does not repeal, alter or vary section 85 of the *Constitution Act 1975*, but an issue is raised as to the jurisdiction of the Supreme Court, as to the full implications of that issue;
- (c) to consider any Act that was not considered under paragraph (a) or (b) when it was a Bill –
  - (i) within 30 days immediately after the first appointment of members of the Committee after the commencement of a Parliament; or
  - (ii) within 10 sitting days after the Act receives Royal Assent —whichever is the later, and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (fa) the functions conferred on the Committee by the Charter of Human Rights and Responsibilities;
- (g) to review any Act in accordance with terms of reference which the Act is referred to the Committee.

## Recommendations

---

- 1. The Committee considers that the repeal of the nine (9) spent principal Acts listed in Schedule 1 is appropriate.***
- 2. The Committee considers that the repeal of the 13 amending Acts in Schedule 1 with substantive or transitional provisions is appropriate.***
- 3. The Committee considers the repeal of the remaining spent amending Acts which are wholly in operation and have no transitional or substantive provisions in Schedule 1 is appropriate.***

# Legislation Reform (Repeals No. 3) Bill 2008

---

<b>Introduced</b>	15 April 2008
<b>Second Reading Speech</b>	17 April 2008
<b>House</b>	Legislative Assembly
<b>Minister introducing Bill</b>	Hon. John Brumby MP
<b>Portfolio responsibility</b>	Premier

## Reference to the Committee

On the motion of the Hon. Peter Batchelor MP, the Legislative Assembly resolved to refer this Bill to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

Other than this specific reference the Committee notes that it has, in conjunction with the Office of Chief Parliamentary Counsel, a general reference from the Parliament to inquire into and consider Acts of the Parliament which are unclear, ambiguous, unnecessary or redundant.<sup>1</sup>

## The role of the Committee in considering a statute law revision Bill

The role of the Committee in considering a statute law revision Bill is to ensure that any amendments made to Acts are not of a substantive nature and are strictly confined to the correction of references, spelling, drafting and grammatical errors which are intended to clarify the original intent of the legislation. Where Acts are to be repealed the objective of the Committee is to ensure that the Acts sought to be repealed are spent or no longer necessary to remain on the Victorian Statute books and that there are appropriate transitional or savings provisions in place, should such provisions be necessary. Other than the amendments proposed to be made to the *Road Safety Act 1986* this Bill is confined to the repeal of redundant or spent legislation and makes no statute law revision amendments to Acts. The amendment to the *Road Safety Act 1986* simply re-enacts a provision in an amending Act that is to be repealed by the Bill.

## Purpose of this Bill

The explanatory memorandum of the Bill provides that the purpose of the Bill is to repeal spent Acts.

The Committee notes the following extracts from the Premier's Second Reading Speech –

*The Acts to be repealed are listed in Schedule 1 to the Bill. Schedule 2 to the Bill makes two amendments to the Road Safety Act 1986 to preserve the effects of one of the repealed Acts, namely the Road Safety (Further Amendment) Act 1991. Schedule 2 will*

---

<sup>1</sup> *Parliamentary Committees Act 2003*, section 33(1)(a).

*ensure that certain changes to the Road Safety Act 1986 that were made by the repealed amending Act will continue to operate only from the time when the amending Act came into effect.*

## Office of the Chief Parliamentary Counsel

The Committee received evidence from the Chief Parliamentary Counsel, Mrs Gemma Varley.

The Committee considered the evidence and concluded that the Acts to be repealed and the amendments made to the *Road Safety Act 1986* were appropriate to be contained in a statute law revision Bill.

The Chief Parliamentary also provided the Committee with a certificate dated April 2008 declaring that the Bill contains only repeals and amendments appropriate for a statute law revision Bill and that any transitional, saving or validation provisions in the Acts to be repealed will be saved by the operation of section 14 of the *Interpretation of Legislation Act 1984*.

The certificate of the Chief Parliamentary Counsel is shown at **Appendix 1**.

## Content and Committee comment

### Statement of Compatibility

The Committee notes the Statement of Compatibility attached to the Second Reading Speech<sup>2</sup> declares that the Premier is of the opinion that the Bill does not raise any human rights issues, and is compatible with the Charter of Human Rights and Responsibilities.

### The Bill in brief

#### [Clauses]

- [1]. Provides that the purpose of the Bill is to repeal certain spent Acts.
- [2]. Provides that the repeal of the Acts come into force on the day after Royal Assent.
- [3]. Provides for the Acts listed in Schedule 1 are to be repealed.
- [4]. Amends the *Road Safety Act 1986* as set out in Schedule 2 to re-enact certain transitional provisions that are currently found in an Act which is being repealed by the Bill.
- [5]. Provides for the automatic repeal of this amending Act on the first anniversary of the day on which it receives Royal Assent.

---

<sup>2</sup> *Parliamentary Debates*, Legislative Assembly, 17 April 2008.

## Schedule 1

### Repeal of Acts

The Acts to be repealed in this Schedule fall into 3 categories —

#### 1. Spent Principal Acts

The Principal Acts to be repealed are—

##### ***The Metropolitan Gas Company's Act 1878 (No. 586)***

*This Act incorporated a company called "The Metropolitan Gas Company". This company was the result of the amalgamation of The City of Melbourne Gas and Coke Company, The Collingwood Fitzroy and District Gas and Coke Company and The South Melbourne Gas Company. This Act also provided for the powers and responsibilities of The Metropolitan Gas Company in respect of the execution of works and the supply of gas. The Metropolitan Gas Company was dissolved on 1 July 1951 under section 11 of the Gas and Fuel Corporation Act 1950. Section 11 was later re-enacted as section 12 of the Gas and Fuel Corporation Act 1958. The Gas and Fuel Corporation was the successor in law of The Metropolitan Gas Company. The Gas and Fuel Corporation has since been abolished. The Gas and Fuel Corporation Act 1958 has been repealed.*

##### ***Bank of New South Wales Act 1926 (No. 3453)***

*This Act repealed certain Acts relating to the Bank of New South Wales and declared that the Bank of New South Wales was deemed to be a company incorporated outside Victoria and applied section 270 of the Companies Act 1915 to that company. The Bank of New South Wales is now Westpac. Westpac has been consulted in relation to the repeal of the 1926 Act and have advised that as Westpac is now a company registered under the Corporations Act 2001 of the Commonwealth, the provision in the 1926 Act is no longer relevant to Westpac and can be repealed.*

##### ***Farm Water Supplies Advances Act 1944 (No. 5020)***

*This Act provided power for the Board of Land and Works to make advances to farmers by way of loans to enable them to obtain supplies of water for their farms. This Act was amended in 1946 to extend its application to drainage. The period of a loan could not exceed 10 years. No further advances were able to be made under the 1944 Act after the commencement in 1950 of Part III of the Rural Finance Corporation Act 1949 (see section 47 of the 1949 Act). The 1949 Act was re-enacted as the Rural Finance Act 1958 which was later replaced by the Rural Finance Act 1988.*

##### ***Winchelsea Coal Mine Act 1951 (No. 5557)***

*This Act ratified agreements in connection with the Winchelsea Coal Mine. The term of each agreement was 5 years from 29 May 1951. This Act also provided for the payment for the purchase of land by the State. The provisions have taken effect. In accordance with the Act and the agreements, title to the land set out in Parts A and B of Schedule 1 was granted to Winchelsea Coal Pty Ltd. A Mineral Lease of the land in Part C of Schedule 1 was granted to Winchelsea Coal Pty Ltd for the period of 15 years commencing 5 September 1955. The land subject to the lease is now Crown land. The ratified agreements are at an end.*

##### ***Bread Industry Act 1959 (No.6529)***

*This Act regulated the Bread Industry in Victoria. The Victorian Competition and Efficiency Commission (VCEC) reviewed this Act in 2007 as part of its report Simplifying the Menu: Food*

*Regulation in Victoria. VCEC recommended the repeal of this Act as it is no longer enforced and the Trade Practices Act 1974 of the Commonwealth now protects competition in that industry.*

**Planning Authorities Repeal Act 1994 (No. 118/1994)**

*This Act provided for the abolition of the Loddon-Campaspe Regional Planning Authority and the Upper Yarra Valley and Dandenong Ranges Authority and the appointment of an administrator to wind up the affairs of each Authority. The 1994 Act then provided for the repeal of the Loddon-Campaspe Regional Planning Authority Act 1987 and the Upper Yarra Valley and Dandenong Ranges Authority Act 1976, the transfer of assets and liabilities to the State and for each administrator to cease to hold office. The 1994 Act also amended the Planning and Environment Act 1987 to insert a new Part 3A dealing with the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. The 1994 Act is wholly in operation. The abolition of each Authority and the repeal of each Act have taken effect. The administrators have ceased to hold office. The provisions amending the Planning and Environment Act 1987 have taken effect and are now spent.*

**Federal Awards (Uniform System) Act 2003 (No. 18/2003)**

*Section 2(3) provides that a proclamation must not be made under section 2(1) bringing Parts 2, 3, 4 or 6 into operation if section 52 has been proclaimed to come into operation. Section 52 amended the Commonwealth Powers (Industrial Relations) Act 1996.*

*Parts 2, 3, 4 and 6 cannot be proclaimed as a proclamation has been made that brought section 52 into operation. (Sections 1(a), 2, 50, 51, 52 and 53 came into operation on 17 December 2003). Sections 50 to 53 have since been repealed. Part 1 contains formal provisions and definitions which are no longer required.*

**Appropriation (2005/2006) Act 2005 (No. 26/2005)**

**Appropriation (Parliament 2005/2006) Act 2005 (No. 27/2005)**

*New appropriation Acts are enacted each year and these Appropriation Acts are now spent in their operation.*

## 2. Spent Amending Acts with transitional or substantive provisions

Schedule 1 repeals 13 amending Acts that contain transitional, saving or validation provisions or substantive provisions. The amendments or repeals made by the Acts are wholly in operation and have amended or repealed the provisions of Acts they were enacted to amend or repeal. The transitional and saving provisions are no longer required because of the passage of time and subsequent enactments since the Acts were enacted. The substantive provisions are no longer required because they have taken effect or are spent or redundant. Any residual or continuing effect of the transitional and saving provisions and the effect of the validation provisions will be saved by section 14 of the *Interpretation of Legislation Act 1984*.

## 3. Spent Amending Acts—wholly in operation

The remainder of the Acts in Schedule 1 are amending Acts which are now wholly in operation and have amended the Acts they were enacted to amend or in some instances the amendments are of no effect because the Act to be amended was repealed. These Acts contain no transitional or substantive provisions.

## Schedule 2

### **Road Safety Act 1986**

This Schedule amends the *Road Safety Act 1986* to re-enact section 18(1) of the *Road Safety (Further Amendment) Act 1991*. This provision is a transitional application provision relating to offences and it is re-enacted for ease of reference by the courts.

#### **Recommendations**

1. *The Committee considers that the repeal of the nine (9) spent principal Acts listed in Schedule 1 is appropriate.*
2. *The Committee considers that the repeal of the 13 amending Acts in Schedule 1 with substantive or transitional provisions is appropriate.*
3. *The Committee considers the repeal of the remaining spent amending Acts which are wholly in operation and have no transitional or substantive provisions in Schedule 1 is appropriate.*



# Appendix 1

## Chief Parliamentary Counsel's Certificate

---



### PARLIAMENTARY COUNSEL VICTORIA

---

Your Reference:  
Our Reference:

Parliamentary Counsel's Chambers  
Level 2 1 Macarthur Street Melbourne VIC 3002  
DX: 210753  
Tel: (03) 9651 2103 Fax: (03) 9651 2107  
Website: [www.ocpc.vic.gov.au](http://www.ocpc.vic.gov.au)

18 April 2008

Mr Carlo Carli MP  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
EASTMELBOURNE: VIC 3002

Dear Mr Carli

#### **LEGISLATION REFORM (REPEALS NO. 3) BILL 2008**

As you are aware, this Bill was introduced into the Legislative Assembly on 15 April 2008 and referred to the Scrutiny of Acts and Regulations Committee on 17 April 2008.

In accordance with the usual practice for this kind of Bill, I certify that Schedule 1 of this Bill contains only repeals appropriate for a redundant legislation repeals Bill. The relevant Departments have confirmed that the Acts proposed to be repealed by the Bill are now obsolete or spent in their operation and can be safely repealed. Any transitional, saving or validation provisions in the Acts to be repealed will be saved by section 14 of the **Interpretation of Legislation Act 1984**.

Schedule 2 provides for the relocation into the **Road Safety Act 1986** of a transitional application provision in the **Road Safety (Further Amendment) Act 1991** (to be repealed by the Bill) to enable the courts to refer to the provision more readily.

I can be contacted on 9651 2109 should your Committee have any queries about any provision of the Bill.

Yours sincerely

GEMMA VARLEY  
Chief Parliamentary Counsel



## Appendix 2 Unproclaimed Acts

---

The Committee provides the following information<sup>3</sup> pursuant to section 17(a)(iv) of the *Parliamentary Committees Act 2003* concerning unproclaimed Acts.

### List of unproclaimed Acts

1. *Footscray Land (Amendment) Act 1990*
2. *Metung Land Act 1991*

---

<sup>3</sup> Source: Office of the Chief Parliamentary Counsel of Victoria.