



# Scrutiny of Acts and Regulations Committee

## Alert Digest No. 2 of 2025

February 2025

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### On the following Bills

Constitution Amendment (Abortion) Bill 2024

Energy and Land Legislation Amendment (Energy Safety) Bill 2025

Regulatory Legislation Amendment (Reform) Bill 2025

### And Subordinate Legislation

SR No. 40 – Subordinate Legislation (Forest (Fire Protection) Regulations 2014)  
Extension Regulations 2024

SR No. 66 – Honorary Justices Regulations 2024

SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024

Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy  
Businesses

# Committee Membership

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Member for Narre Warren South

John Pesutto MP  
Deputy Chair  
Member for Hawthorn

Gaelle Broad MP  
Member for Northern Victoria

Eden Foster MP  
Member for Mulgrave

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Member for Broadmeadows

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## Terms of Reference – Scrutiny of Bills

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 *Privacy and Data Protection Act 2014*;
  - (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;

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# Useful information

## ***Role of the Committee***

The Scrutiny of Acts and Regulations Committee is an all-party Joint House Committee, which examines all Bills and subordinate legislation (regulations) introduced or tabled in the Parliament. The Committee does not make any comments on the policy merits of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of non-partisan legislative scrutiny. These traditions have developed since the first Australian scrutiny of Bills committee of the Australian Senate commenced scrutiny of Bills in 1982. They are precedents and traditions followed by all Australian scrutiny committees. Non-policy scrutiny within its terms of reference allows the Committee to alert the Parliament to the use of certain legislative practices and allows the Parliament to consider whether these practices are necessary, appropriate or desirable in all the circumstances.

The *Charter of Human Rights and Responsibilities Act 2006* provides that the Committee must consider any Bill introduced into Parliament and report to the Parliament whether the Bill is incompatible with human rights.

## ***Interpretive use of Parliamentary Committee reports***

Section 35 (b)(iv) of the *Interpretation of Legislation Act 1984* provides –

In the interpretation of a provision of an Act or subordinate instrument consideration may be given to any matter or document that is relevant including, but not limited to, reports of Parliamentary Committees.

## ***When may human rights be limited***

Section 7 of the *Charter* provides –

Human rights – what they are and when they may be limited –

- (2) A human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including—
  - (a) the nature of the right; and
  - (b) the importance of the purpose of the limitation; and
  - (c) the nature and extent of the limitation; and
  - (d) the relationship between the limitation and its purpose; and
  - (e) any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

## ***Glossary and Symbols***

'Assembly' refers to the Legislative Assembly of the Victorian Parliament

'Charter' refers to the Victorian *Charter of Human Rights and Responsibilities Act 2006*

'Council' refers to the Legislative Council of the Victorian Parliament

'DPP' refers to the Director of Public Prosecutions for the State of Victoria

'human rights' refers to the rights set out in Part 2 of the Charter

'IBAC' refers to the Independent Broad-based Anti-corruption Commission

'PCA' refers to the *Parliamentary Committees Act 2003*

'penalty units' refers to the penalty unit fixed from time to time in accordance with the *Monetary Units Act 2004* and published in the government gazette (as at 1 July 2024 one penalty unit equals \$197.59)

'Statement of Compatibility' refers to a statement made by a member introducing a Bill in either the Council or the Assembly as to whether the provisions in a Bill are compatible with Charter rights

'VCAT' refers to the Victorian Civil and Administrative Tribunal

[ ] denotes clause numbers in a Bill

# Alert Digest No. 2 of 2025

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## Constitution Amendment (Abortion) Bill 2024

<b>Member</b>	Sarah Mansfield MP	<b>Introduction Date</b>	12 November 2024
<b>Private Member's Bill</b>		<b>Second Reading Date</b>	5 February 2025

### Summary

The Bill amends the *Constitution Act 1975* to constrain the power of the Parliament to make laws repealing, altering or varying certain provisions of the *Abortion Law Reform Act 2008* and for other purposes. Note the Second Reading Speech:-

The bill will enshrine the Abortion Law Reform Act in the Constitution in a way that makes it extremely difficult for future Victorian governments or parliaments to pass legislation to limit, dilute or abolish the current provisions providing for the legal access to abortion - requiring a special majority, or three fifths of the parliament, for the Act to be diminished.

### Background – Section 18 of the *Constitution Act 1975* (CA) a special majority – entrenchment

Section 18(1) of the CA sets out the general power of the Parliament to 'repeal, alter or vary all or any provisions of that Act and substitute others in lieu thereof.' Pursuant to section 18(2) specified provisions and various Parts of the CA are unlawful unless they are passed by a 'special majority.' A special majority is defined in section 18(1A) to mean '3/5<sup>th</sup> of the whole number of the members of the Assembly and of the Council respectively.' Section 18(2) is set out:-

It shall not be lawful to present to the Governor for His Majesty's assent any Bill by which-

(aa) section 1A; or...

(fac) section 103; or...

may be repealed, altered or varied or any bill... unless the third reading of the Bill is passed by a special majority.

This entrenchment procedure which requires approval by a special majority of the Parliament differs from the entrenchment procedure set out in sections 18(2AA) and (2A)<sup>1</sup> which requires the third reading of the Bill to be passed by an absolute majority. The Committee has occasionally reported over the years in relation to Bills which entrench various provisions of the CA.<sup>2</sup>

- *Constitution (Parliamentary Reform) Act 2003*
- *Constitution (Water Authorities) Bill [2003]*

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<sup>1</sup> See *Constitution Act 1975*, section 18(2AA) and (2A).

(2AA) It shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which—

(a) this subsection or subsection (2A) or (5); or

(b) Part III (other than section 75(1) or 85); or

(c) any provision substituted for any provision specified in paragraph (a) or (b)—

may be repealed, altered or varied unless the third reading of the Bill is passed by an absolute majority.

(2A) A provision of a Bill by which section 85 may be repealed, altered or varied is void if the third reading of the Bill is not passed with the concurrence of an absolute majority of the whole number of the members of the Council and of the Assembly respectively.

<sup>2</sup> See *Alert Digest No. 15 of 2023*, *Constitution Amendment (SEC) Bill 2023*, pp. 3-4. <<https://www.parliament.vic.gov.au/490443/globalassets/committee-publication-record-documents/committee-36/publication-292/alert-digest-no-15-of-2023.pdf>>

- Constitution (Recognition of Aboriginal People) Bill [2004]
- Courts Legislation (Judicial Conduct) Bill [2005]
- Constitution (Appointments) Bill 2009
- Constitution Amendment (Fracking Ban) Bill 2020
- Constitution Amendment (State of Emergency and State of Disaster) Bill 2021
- Constitution Amendment (SEC) Bill 2023

### Amendments

The Bill amends section 18(2). **[3]** It inserts new paragraph '(fad) Part XI; or' after section 18(2)(fac). Amended section 18(2) provides that it is unlawful to present to the Governor for His Majesty's assent any Bill which the new Part XI is repealed, altered or varied unless the third reading of the Bill is accompanied by a special majority, being three-fifths of each House.

### Part XI – Abortion

It inserts new Part XI which makes provision generally for abortion.<sup>3</sup> **[4]**

New section 109 sets out definitions of abortion, hospital, registered health practitioner, registered medical practitioner, registered nurse, registered pharmacist, regulated health profession and woman.<sup>4</sup>

New section 110 sets out the purpose of the Part to constrain the power of the Parliament to make laws repealing, altering or varying certain provisions of the *Abortion Law Reform Act 2008* (ALRA) in order to ensure that abortion remains lawful and reasonably accessible at all times in Victoria.

New section 111 provides that Parliament's legislative power is constrained in relation to repealing, altering or varying certain provisions of the ALRA.

New section 111(1) provides the Parliament may not by any Act, whether expressly or by implication, repeal, alter or vary any of the following-

- (a) Section 4 of the ALRA which permits a registered medical practitioner to perform an abortion on a woman who is not more than 24 weeks pregnant;

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<sup>3</sup> Note new section 109 provides that 'abortion' has the same meaning as in section 3 of the *Abortion Law Reform Act 2008*. That Act provides 'abortion means intentionally causing the termination of a woman's pregnancy by— (a) using an instrument; or (b) using a drug or a combination of drugs; or (c) any other means.

<sup>4</sup> Ibid. 'hospital' means a public hospital, private hospital or day procedure centre within the meaning of the *Health Services Act 1988*;

'registered health practitioner' means a person registered under the Health Practitioner Regulation National Law to practise a health profession (other than as a student);

'registered medical practitioner' means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

'registered nurse' means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse or as a midwife (other than as a student);

'registered pharmacist' means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);

'regulated health profession' means a health profession within the meaning of the Health Practitioner Regulation National Law;

'woman' has the same meaning as in section 3 of the *Abortion Law Reform Act 2008*. (That Act provides 'woman means a female person of any age').

- (b) Section 5 of the ALRA which permits a registered medical practitioner in the circumstances specified in that section to perform an abortion on a woman who is more than 24 weeks pregnant;
- (c) Section 6 of the ALRA which permits a registered pharmacist or registered nurse who is authorised by law to supply a drug or drugs to administer or supply the drug or drugs to cause an abortion in a woman who is not more than 24 weeks pregnant;
- (d) Section 7 of the ALRA which permits
  - (i) a registered medical practitioner, in the circumstances specified in that section, to direct a registered pharmacist or registered nurse who is employed or engaged by a hospital, to administer or supply a drug or drugs to cause an abortion in a woman who is more than 24 weeks pregnant; and
  - (ii) a registered pharmacist or registered nurse to administer or supply a drug or drugs to cause an abortion in a woman who is more than 24 weeks pregnant if the nurse or pharmacist is employed or engaged by a hospital and the administration or supply is at the direction of a registered medical practitioner;
- (e) Section 8 of the ALRA which requires
  - (i) a registered health practitioner who has a conscientious objection to abortion, to refer any woman who requests that the practitioner advise on or perform, direct, authorise or supervise an abortion for that woman, to another registered health practitioner in the same regulated health profession whom the practitioner knows does not have a conscientious objection to abortion; and
  - (ii) a registered medical practitioner to perform an abortion, and a registered nurse to assist a registered medical practitioner in performing an abortion, in an emergency where the abortion is necessary to preserve the life of the pregnant woman;
- (f) a provision of an Act to the extent that the provision is necessary for the effective operation of a provision referred to in paragraph (a), (b), (c), (d) or (e).

New section 111(2) provides despite subsection (1), the Parliament may by any Act repeal, alter or vary a provision referred to in that subsection if the repeal, alteration or variation—

- (a) substitutes for the provision one or more other provisions that have the same effect; or
- (b) repeals and re-enacts the provision; or
- (c) makes editorial changes that do not derogate from the substantive operation of the provision including, but not limited to, any of the following changes—
  - (i) changes made to correct typographical, grammatical or clerical errors;
  - (ii) changes to numbering;
  - (iii) changes of references to a re-named entity or Act;
  - (iv) changes of a consequential nature that are required because of amendments or repeals of any Act.

New section 111(3) provides without limiting subsection (1), an Act is taken to repeal, alter or vary a provision referred to in that subsection if the Act—

- (a) makes it an offence for an abortion to be performed or caused; or
- (b) makes it an offence for an abortion to be performed or caused except for the sole purpose of protecting the physical or mental health of the woman; or
- (c) makes it an offence to advise on a proposed abortion; or

- (d) makes it an offence to advise on a proposed abortion except for an abortion for the sole purpose of protecting the physical or mental health of the woman; or
- (e) limits the circumstances in which abortion is permitted including by reducing the number of weeks of pregnancy during which an abortion may be performed or caused without requiring the person performing the abortion or causing the abortion—
  - (i) to have a reasonable belief that the abortion is appropriate; or
  - (ii) to have consulted another practitioner who also holds the same belief; or
- (f) limits the class or classes of person authorised to—
  - (i) perform an abortion; or
  - (ii) direct the administration or supply of drugs to cause an abortion; or
  - (iii) administer or supply drugs to cause an abortion; or
- (g) limits the class or classes of drug that may be administered or supplied to cause an abortion; or
- (h) abolishes the obligation imposed on a registered health practitioner who has a conscientious objection to abortion to refer a woman seeking an abortion to another practitioner whom the practitioner knows does not have a conscientious objection to abortion or limits the circumstances in which the obligation applies; or
- (i) abolishes the duty imposed on a registered medical practitioner to perform an abortion, or the duty imposed on a registered nurse to assist a registered medical practitioner in performing an abortion, in an emergency to preserve the life of the pregnant woman.

**The effect of the amendments is that Parliament may not by any Act, whether expressly or by implication, repeal, alter or vary sections 4, 5, 6, 7 and 8 of the *Abortion Law Reform Act 2008* as inserted by clauses [3] and [4] unless the third reading of each House is accompanied by a special majority, being three fifths of each House.**

### Comments under the PCA

***Rights and Freedoms – abortion – operation of provisions – offences – obligations of health practitioner – conscientious objections – (Section 17(a)(i), PCA)***

#### Background

The Committee reported on the Abortion Law Reform Bill in 2008. An extract is set out:-

***Undue trespass to rights or freedoms – Parliamentary Committees Act 2003, section 17(1)(a)(i) – Abortion – Whether a foetus is a person ('human being') – Right of a woman to terminate pregnancy – Immunity for certain persons assisting abortion – Despite conscientious objection health practitioner must make referral to assist in procuring an abortion or assist in emergency abortion***

#### **Clauses 4 to 7**

The Committee observes that the proposed Act will allow for the termination of a pregnancy by a registered medical practitioner both before and after 24 weeks of pregnancy and provides legal immunity for registered practitioners, pharmacists and nurses assisting such terminations.

The Committee considers that for the purposes of reporting to Parliament pursuant to section 17(1)(a)(i) of the *Parliamentary Committees Act 2003* (the 'Act') only persons have rights and freedoms.

In the particular circumstances the Committee does not consider that it would be helpful or appropriate for it to attempt to provide a definition of 'person' or 'human being' for the purposes of making any comment or observation in respect to rights and freedoms within the meaning of the Act. The

Committee observes that such a definition ultimately involves difficult and fundamental considerations of ethics, personal belief and conscience.

The Committee has determined to refer for Parliament's consideration the question whether the provisions of the Bill constitute an undue trespass to rights or freedoms to any person within the meaning of the Act.

#### **Clause 8**

The Committee notes that despite their conscientious objection against abortion, the Bill will compel health practitioners to make a referral to another health practitioner who the practitioner knows does not have a conscientious objection to abortion. Further the provisions in the Bill will compel medical practitioners and nurses despite any conscientious objection to abortion that they may hold, to perform emergency abortions necessary to preserve the life of the pregnant woman.

The Committee observes that these provisions involve the difficult assessment of competing rights and freedoms, that of the right of a woman to choose to terminate a pregnancy and the right in emergency circumstances to reasonable medical treatment in order to preserve a woman's life, and on the other hand the right of health practitioners not to be compelled to assist or act against their conscience.

Whether the Bill strikes an appropriate balance to these competing rights or whether the policy objectives of the Bill may be achieved by less intrusive alternative means is a question for the Parliament to determine.

#### Existing legislation – ALRA – Crimes Act 1958 (CA)

The Committee notes that abortions may be performed by registered health practitioners in accordance with sections 4, 5, 6 and 7 of the ALRA. The obligations of registered health practitioners who have a conscientious objection are set out in section 8 of the ALRA.

Section 65 of the CA provides a person who is not a qualified person must not perform an abortion on another person.<sup>5</sup> Part 1, Division 1(4) of the CA generally sets out offences against the person including the offences of causing serious injury.<sup>6</sup> 'Serious injury' is defined in that Part to include the destruction, other than in the course of a medical procedure, of the foetus of a pregnant woman, whether or not the woman suffers any harm.<sup>7</sup> A 'medical procedure' means an abortion performed by a registered medical practitioner or the administration or supply of a drug or drugs by a registered pharmacist or registered nurse in accordance with the ALRA.<sup>8</sup>

#### Amendments

Clause [4] inserts new section 111 which provides the Parliament may not by any Act whether expressly or by implication, repeal, alter or vary sections 4 to 8 of the ALRA.<sup>9</sup> The amendments must be passed by a special majority, ie: 3/5<sup>th</sup> of each House. Section 111(3) sets out a list of matters from (a) to (i) which are taken to 'repeal, alter or vary a provision' referred to in subsection (1) if set out in any Act. This includes some proposed offences and the abolition of various obligations.

<sup>5</sup> The penalty is Level 5 imprisonment (10 years maximum.) Note for the purposes of section 65—

(a) a registered medical practitioner is a qualified person; and

(b) a registered pharmacist or registered nurse is a qualified person only for the purpose of performing an abortion by administering or supplying a drug or drugs in accordance with the *Abortion Law Reform Act 2008*.

<sup>6</sup> See sections 15A, 15B, 16 and 17.

<sup>7</sup> See section 15 of the *Crimes Act 1958* which sets out various definitions. 'serious injury'. It also means under paragraph (a) an injury (including the cumulative effect of more than one injury) that endangers life or is substantial and protracted.

<sup>8</sup> See section 15 of the *Crimes Act 1958* which sets out various definitions; 'medical procedure'.

<sup>9</sup> Note subsection (2) which provides substitution of a provision for provisions that have the same effect, re-enactments, editorial 'changes that do not derogate from the substantive operation of the provision'.

The Committee seeks further information in relation to the proposed operation of new section 111(3) as specified below:-

- New sections 111(3)(a) and (b); New section 111(3)(a) uses the term ‘makes it an offence’ for an abortion to be performed or caused. New section 113(b) makes it an offence for an abortion to be performed or caused except for the sole purpose of protecting the physical or mental health of the woman. **The Committee seeks further information as how these provisions work within the existing framework of the ALRA and the CA.**
- New sections 113(3)(c) and (d); New section 111(3)(c) uses the term ‘makes it an offence’ to advise on a proposed abortion. New section 113(d) makes it an offence to advise on a proposed abortion for the sole purpose of protecting the physical and mental health of the woman. For example, would this extend to persons in a psychologists’ practice or religious faith practitioners who may offer counsel. **The Committee seeks further information as to the intended scope of the provisions.**
- New section 111(3)(e); New section 111(3)(e) uses the language ‘limits the circumstances’ in which abortion is permitted (including by reducing the number of weeks of pregnancy during which an abortion may be performed or caused without requiring the person performing or causing the abortion) to have a reasonable belief that the abortion is appropriate or to have consulted another practitioner who also holds the same belief. **The Committee seeks further information as to the intended operation of the provisions.**

**The Committee will write to the Member seeking further information.**

### **Charter Issues**

***Participation in public affairs – Acts that repeal, alter or vary existing abortion laws – Acts that criminalise, impose limits on, or limit obligations relating to, abortion – Requirement of special majority of 3/5ths of each house***

Summary: *The effect of clause 4 may be that, unless 3/5ths of each house supports it, an Act of the Parliament of Victoria may not repeal, alter or vary existing abortion laws, or criminalise, limit, or limit obligations to perform or assist, an intentional termination of a pregnancy. The Committee will write to the member seeking further information.*

#### Relevant provision

The Committee notes that clause 4, inserting a new section 111, provides that ‘Parliament may not, by any Act, whether expressly or by implication, repeal, alter or vary’ existing ss. 4 to 8 of the *Abortion Law Reform Act 2008* or ‘a provision of an Act to the extent that the provision is necessary for the effective operation of’ those sections, other than by substitutions, re-enactments or editorial changes ‘that do not derogate from the substantive operation of the provision’.

New sub-section (3) additionally provides that ‘an Act is taken to repeal, alter or vary’ such a provision if it:

- ‘makes it an offence for an abortion to be performed or caused’: new para (a)
- ‘makes it an offence to advise on a proposed abortion’: new para (c)
- ‘limits the circumstances in which abortion is permitted’: new para (e)
- ‘limits the class or classes of person authorised to... perform an abortion’ (or authorise or supply drugs for an abortion): new para (f)
- ‘limits the class or classes of drug that may be administered or supplied to cause an abortion’: new para (g)

- ‘abolishes the obligation... to refer a woman seeking an abortion to another practitioner whom the practitioner knows does not have a conscientious objection to abortion or limits the circumstances where the obligation applies’: new para (h); or
- ‘abolishes the duty... to perform’ or assist in ‘an abortion... in an emergency to preserve the life of the pregnant woman’: new para (i).

‘Abortion’ means ‘intentionally causing the termination of a women’s pregnancy by... any... means’.

Clause 3, amending existing sub-s. 18(2), provides that ‘It shall not be lawful to present to the Governor for Her Majesty’s assent any Bill by which... Part XI... may be repealed, altered or varied... unless the third reading of the Bill is passed by a special majority.’<sup>10</sup> Existing sub- s. 18(1A) provides that a special majority ‘means 3/5ths of the whole number of the members of the Assembly and of the Council respectively.’<sup>11</sup>

**The Committee observes that the effect of clause 4 may be that an Act of the Parliament of Victoria may not:**

- **repeal, alter or vary existing ss. 4 to 8 of the *Abortion Law Reform Act 2008* and provisions necessary to give effect to them (other than non-substantive changes)**
- **make it a crime to perform, cause or advise on the intentional termination of a women’s pregnancy by any means**
- **limit when, by whom and with what drugs such a termination may be caused; or**
- **abolish or limit registered practitioners’ obligations and duties to refer, perform or assist in such a termination**

**unless 3/5ths of the members of each house support a Bill permitting it.**

#### Charter analysis

The Statement of Compatibility remarks:

Section 48 of the charter states that none of the provisions of the charter affect any laws applicable to abortion. As the charter does not apply to the bill, the bill is compatible with the charter.

The Committee notes that Charter s. 48 provides:

Nothing in this Charter affects any law applicable to abortion or child destruction, whether before or after the commencement of Part 2.

The Committee observes that Charter s. 28 (which requires members introducing bills to state ‘whether, in the member’s opinion, the Bill is compatible with human rights and, if so, how it is compatible’) may not ‘affect’ any ‘law’<sup>12</sup>; that clause 3 (on parliament’s powers) and new paras 111(1)(e)(i) and 111(3)(h) (on registered health practitioner referrals) may not be laws ‘applicable to abortion’; and that this Committee’s functions under the *Parliamentary Committees Act 2003* include

<sup>10</sup> Existing s. 6 of the *Australia Act 1986* (UK) provides that ‘a law made... by the Parliament of a State respecting the constitution, powers or procedure of the Parliament of the State shall be of no force or effect unless it is made in such manner and form as may from time to time be required by a law made by that Parliament’. However, see *West Lakes Limited v South Australia* (1980) 25 SASR 389, 397 (King CJ): ‘There must be a point at which a special majority provision would appear as an attempt to deprive the parliament of powers rather than as a measure to prescribe the manner or form of their exercise. This point might be reached more quickly where the legislative topic which is the subject of the requirement is not a fundamental constitutional provision.’

<sup>11</sup> Existing sub s. 18(1B) provides that existing sub-ss. (1A) & (1B) cannot be altered unless by a Bill ‘approved by the majority of the electors voting at a referendum.’

<sup>12</sup> Charter s. 29 provides: ‘A failure to comply with section 28 in relation to any Bill that becomes an Act does not affect the validity, operation or enforcement of that Act or of any other statutory provision.’

considering and reporting on whether any Bill 'is incompatible with the human rights set out in the Charter of Human Rights and Responsibilities'.<sup>13</sup>

The Committee notes that Charter s. 18 provides:

- (1) Every person in Victoria has the right... to participate in the conduct of public affairs, directly or through freely chosen representatives.
- (2) Every eligible person has the right...
  - (a) to vote... at periodic State... elections that guarantee the free expression of the will of the electors.

The Committee observes that the combined effect of Charter ss. 18(1) and 18(2)(a) may be that every eligible Victorian has the right to participate in the conduct of public affairs either directly (e.g. by referendum) or through freely chosen representatives elected at periodic elections that guarantee the free expression of the will of the voters (e.g. State elections that determine the composition of Parliament.) Therefore, clause 3, to the extent that it may limit Victorian electors' right to elect a representative who can vote with a majority of other elected representatives in each house to enact a law to repeal, alter or vary existing abortion laws, or enact offences or alter limits or obligations relating to intentional terminations of pregnancy, may engage Charter s. 18.<sup>14</sup>

The Committee notes that it may be unclear whether or not:

- new sub-section 111(1), which bars Acts of Parliament that repeal, alter or vary existing ss. 4 to 8 of the *Abortion Law Reform Act 2008*, applies to Acts that broaden the circumstances where abortion is 'lawful and reasonably accessible... in Victoria',<sup>15</sup> e.g. by narrowing the preconditions for ss. 4 to 7, expanding the classes of persons who may cause them or the drugs that may be used or adding to the obligations or duties imposed by s. 8.
- new para 111(1)(e)(i), which describes existing s. 8(1) of the *Abortion Law Reform Act 2008* as 'requir[ing]... a registered health practitioner who has a conscientious objection to abortion, to refer any woman... who requests... an abortion', applies to Acts to repeal, alter or vary existing s. 8(1)(a), which provides that those practitioners 'must... inform the woman that the practitioner has a conscientious objection to abortion'.
- new para 111(3)(a), which deems an Act that 'makes it an offence for an abortion to be performed or caused' to be within new sub-section 111(1), applies to Acts that criminalise abortions that are not performed or caused 'in accordance with the *Abortion Law Reform Act 2008*', including existing offences in the *Crimes Act 1958*.<sup>16</sup>
- new paras 111(3)(e)-(g), which deem an Act that 'limits' the 'circumstances in which abortion is permitted', the 'classes of person authorised to' abort or the 'classes of drug' that may be given to cause an abortion to be within new sub-section 111(1), applies to Acts that currently impose

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<sup>13</sup> *Parliamentary Committees Act 2003*, s. 17(a)(viii). See Scrutiny of Acts and Regulations Committee, *Alert Digest No. 11 of 2008* (reporting on the Abortion Law Reform Bill 2008), pp. 7-8.

<sup>14</sup> See Scrutiny of Acts and Regulations Committee, *Alert Digest 5 of 2020* (reporting on the Constitution Amendment (Fracking Ban) Bill 2020), pp. 6-7.

<sup>15</sup> New section 110.

<sup>16</sup> E.g. existing Part 1, Division 1, Subdivision 4 (e.g. existing s. 16, when read with the definition of 'serious injury' and 'medical procedure in existing s. 15) & existing s. 65 of the *Crimes Act 1958*. See also new section 110(3)(c), which may be unclear as to whether or not it invalidates Acts that criminalise advising on proposed abortions that would not be done in accordance with the *Abortion Law Reform Act 2008* (e.g. existing s. 324 of the *Crimes Act 1958*.)

such limits (e.g. exiting limits on assisted reproductive technology, health practitioner regulation or drugs<sup>17</sup>) or to subordinate legislation that extends those limits.<sup>18</sup>

### Relevant comparisons

The Committee notes that existing s. 18(2) requires 3/5ths majorities of each house to alter provisions on: recognition of Aboriginal people; the Governor; Parliament's powers and mandate; membership and qualification of electors of the Legislative Council and Legislative Assembly; the judiciary; public delivery of water services; maintaining prohibitions on hydraulic fracturing and exploration for coal seam gas; and the SEC. The Committee observes that the provisions on fracking and coal seam gas specify that Parliament may increase the penalty or widen the class of persons liable for contravening those prohibitions, but may not lower the penalty, narrow the class of persons liable or reduce the geographical area where they apply.<sup>19</sup>

The Committee also notes that nearly all Australian jurisdictions have enacted laws that are similar to or narrower than existing ss. 4 to 8 of the *Abortion Law Reform Act 2008*, but that some may provide for wider lawfulness or accessibility of abortion by expressly:

- providing that the requirement to consult with another practitioner in relation to late-term abortions does not apply in some emergency circumstances;<sup>20</sup>
- permitting some students to assist in abortions in some circumstances;<sup>21</sup>
- imposing a time period within which disclosures or referrals for conscientious objection must be made;<sup>22</sup>
- not limiting or regulating late-term abortions.<sup>23</sup>

All Australian jurisdictions make it an offence for an abortion to be performed or caused by some people or in some circumstances.<sup>24</sup> No Australian jurisdiction currently restricts a parliament's power to repeal, alter or vary abortion laws.

### Conclusion

**The Committee will write to the member seeking further information as to whether or not:**

- **clause 3 is compatible with the Charter's right to participation in public affairs;**
- **new sub-section 111(1) applies to Acts that broaden the circumstances where abortion is lawful and reasonably accessible in Victoria;**
- **new para 111(1)(e)(i) includes existing s. 8(1)(a) of the *Abortion Law Reform Act 2008*;**

<sup>17</sup> E.g. *Assisted Reproductive Technology Act 2008*, s. 28; *Health Practitioner Regulation National Law (Victoria) Act 2009*, s. 4 (and see, e.g., *Health Practitioner Regulation National Law*, s. 75); *Drugs, Poisons and Controlled Substances Act 1981*, s. 14.

<sup>18</sup> E.g. *Drugs, Poisons and Controlled Substances Act 1981*, s. 14A.

<sup>19</sup> Existing ss. 99(2)(d)-(e) & (3).

<sup>20</sup> *Abortion Law Reform Act 2019* (NSW), s. 6(5); *Termination of Pregnancy Law Reform Act 2017* (NT), s. 10; *Termination of Pregnancy Act 2021* (SA), s. 6(3); *Termination of Pregnancy Act 2018* (Qld), s. 6(3); *Public Health Act 2016* (WA), s. 202ME(5).

<sup>21</sup> *Termination of Pregnancy Act 2018* (Qld), s. 7(3); *Public Health Act 2016* (WA), s. 202MG(3).

<sup>22</sup> *Health Act 1993* (ACT), s. 84A(4); *Abortion Law Reform Act 2019* (NSW), s. 9(2) & (3); *Termination of Pregnancy Law Reform Act 2017* (NT), s. 11(2)(b); *Termination of Pregnancy Act 2021* (SA), s. 11(2) & (3); *Public Health Act 2016* (WA), ss. 202MH(2) & 202MI(2).

<sup>23</sup> *Crimes (Abolition of Offence of Abortion) Act 2002* (ACT), s. 3.

<sup>24</sup> *Health Act 1993* (ACT), ss. 81-83; *Crimes Act 1900* (NSW), s. 82; *Criminal Code Act 1983* (NT), sch 1, s. 208A; *Criminal Code Act 1899* (Qld), sch 1, s. 319A; *Termination of Pregnancy Act 2021* (SA), s. 14; *Criminal Code Act 1924* (Tas), sch. 1, ss. 178D & 178E; *Public Health Act 2016* (WA), s. 202MN.

- **new para 111(3)(a), applies to Acts (including existing Acts) that criminalise abortions that are not performed or caused in accordance with the *Abortion Law Reform Act 2008*;**
- **new paras 111(3)(e)-(g) apply to Acts (including existing Acts) that currently limit the circumstances in which abortions may lawfully occur (or who may cause abortions, or with what drugs) or to subordinate legislation that extends those limits.**

# Energy and Land Legislation Amendment (Energy Safety) Bill 2025

<b>Member</b>	Hon Lily D'Ambrosio MP	<b>Introduction Date</b>	4 February 2025
<b>Portfolio</b>	Energy and Resources	<b>Second Reading Date</b>	5 February 2025

## Summary

The Bill amends various Energy Acts and other Acts. Note the Statement of Compatibility:-

This Bill amends the *Electricity Safety Act 1998*, the *Gas Safety Act 1997*, the *Pipelines Act 2005* and the *Energy Safe Victoria Act 2005* to continue to make the energy safety legislation framework in Victoria fit for purpose for the energy transition. It does this by expanding and strengthening the regulatory tools available to Energy Safe Victoria and the courts under the energy safety framework, aligning Energy Safe Victoria's powers with those available to other, similar regulators and streamlining the approach to safety risks and regulatory responses where relevant across each Act. The Bill also amends the *Land Act 1958* to provide increased certainty of tenure for proposed projects on unreserved Crown land that are also subject to the *Environment Effects Act 1978* regime.

### Part 2 – Amendment of the *Electricity Safety Act 1988*

Clause [2] is the commencement provision. Subclause (4) states that if a provision of the Act does not come into operation before 1 April 2026, it comes into operation on that day. In relation to the delayed commencement provision note the Explanatory memorandum.<sup>25</sup> [2] Bushfire mitigation plans are required every five years instead of annually.<sup>26</sup> [4] A revised bushfire mitigation plan must be submitted to Energy Safe Victoria (ESV) as soon as practicable. [5] It is an offence<sup>27</sup> to modify bushfire mitigation plans unless ESV has accepted a revision. ESV must notify a specified operator in writing of its decision. [8] ESV may require a specified operator<sup>28</sup> to provide any additional information it thinks fit. [5-12] It abolishes the Electric Line Clearance Consultative Committee and the Victorian Electrolysis Committee. [13-18] Note the Statement of Compatibility:-

Clauses 16 and 18 of the Bill abolish the Electric Line Clearance Consultative Committee and the Victorian Electrolysis Committee which are required to provide advice on specific matters to Energy Safe Victoria or the Minister, to provide greater flexibility for Energy Safe Victoria to establish advisory committees under existing powers under the *Energy Safe Victoria Act 2005* as need arises.

<sup>25</sup> Note the Explanatory memorandum:- 'A default commencement date that is more than 12 months after the introduction of the Bill is necessary to allow sufficient time for changes to Energy Safe Victoria's enforcement powers to be operationalised. The extended timeframe for the commencement of the provisions that will commence by proclamation or on the default commencement date will ensure that Energy Safe Victoria has time to develop policies and train authorised officers with respect to the use of the new and amended enforcement powers.'

<sup>26</sup> Note the Second Reading Speech:- '... bringing them into line with the equivalent plans required for major electricity companies. Energy Safe will maintain strong oversight of all Bushfire Mitigation Plans and will have the power to require a plan to be revised in certain circumstances, for example, if there are changes in an operator's risk profile or government policies.'

<sup>27</sup> The penalty in the case of a natural person is 1200 penalty units and in the case of a body corporate 6000 penalty units.

<sup>28</sup> *Electricity Safety Act 1998*, s 83A. 'specified operator' means the operator of an at-risk electric line but does not include a major electricity company.

It repeals the requirement for authorised officers to obtain written consent from ESV before exercising enforcement powers.<sup>29</sup> An authorised officer may request the assistance of any person for the purpose of exercising entry powers.<sup>30</sup> **[29]** Note the Second Reading Speech:-

The Bill removes the need for Energy Safe authorised officers to obtain written consent before exercising certain powers, and allows officers to request assistance from any person for the purpose of entry in exercising their powers under the relevant Act. This will enable authorised officers to act swiftly to resolve safety risks involving new technologies requiring specialist knowledge. Authorised officers will need to report their use of entry powers to Energy Safe, and Energy Safe will continue to maintain a register of the entry power usage.

An authorised officer may apply to a magistrate for the issue of a warrant to enter any land or premises (including residential premises). **[24-27]**<sup>31</sup> It amends section 140A to capture a broader scope of offences as prescribed offences. **[30]**

A court<sup>32</sup> may grant an injunction to ESV or any prescribed person if it considers appropriate and is satisfied that a person has engaged or is proposing to engage in conduct that constitutes or would constitute a contravention of the Act or regulations, a notice, direction, order or determination issued or made under a provision of the Act. An injunction may be granted by consent. Interim injunctions may be granted. **[31]**

Improvement and prohibition notices may be issued by the Chairperson of ESV or an authorised officer.<sup>33</sup> The VCAT may review the decision. **[32-34]** It increases various penalties in a number of provisions relating to the safety of electrical installation, compliance, certificates and other matters. **[36-44]** It provides for the immediate suspension of the registration of electrical contractors or the immediate suspension of an electrical worker if ESV considers it is in the public interest to do so. ESV may commence an inquiry. The VCAT may review the decision. **[46,47]** It inserts new section 148B which provides for the making of adverse publicity orders by the court. Clause **[49]** amends the process for prescribing the Code of Practice for Electronic Line Clearance (Code) including removing the right to make the draft regulations prescribing the Code for public comment for 90 days and to consider comments during that period. Note the Statement of Compatibility:-

Removing the requirement to make the draft regulations available for public comment for 90 days may engage section 15(2) and 18(1) of the Charter as the consultation process provides an opportunity for members of the public to express their views on the draft regulations, and participate in the conduct of public affairs.

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<sup>29</sup> Note Part 6 sets out rights of review in VCAT. Energy Safe Victoria has a complaints process.

See *Electricity Safety Act 1988*, s 122(3)(a) and (4):

(3) An enforcement officer may enter any residence or the land on which a residence is situated if—

(a) the enforcement officer gives the occupier not less than 24 hours notice, or such other notice as may be agreed with the occupier, before the enforcement officer enters the land or residence; and

(4) An enforcement officer may enter any other land or premises during normal business hours.

<sup>30</sup> For example see new section 138A(3). An assistance person may be an interpreter.

<sup>31</sup> Note the Explanatory memorandum:- 'Clause 24 amends section 129(2)(b) of the *Electricity Safety Act 1998* to include a reference to a warrant under new section 130A of that Act, so that an enforcement officer must not enter and search land or premises or seize any thing under Division 3 of Part 11 of that Act except with the written consent of the occupier of the land or premises, under the authority of a warrant under new section 130A (inserted by clause 25) or under a search warrant.'

<sup>32</sup> Note the Explanatory Memorandum:- 'Clause 31 ... New section 141F(2) provides that the court may grant an injunction under section 141F(1) on application by Energy Safe Victoria or any prescribed person.'

See *Electricity Safety Act 1988*, s 141E:

(1) If Energy Safe Victoria considers that a person has contravened an undertaking given by the person and accepted under section 141D, Energy Safe Victoria may apply to the Magistrates' Court for an order under subsection (2).

<sup>33</sup> The penalty for non-compliance with a prohibition notice is 500 penalty units or 5 years imprisonment or both. In the case of a body corporate the relevant penalty is 2500 penalty units.

However, in my view the rights are not limited because when making the regulations prescribing the Code of Practice for Electric Line Clearance, the Government will have to comply with the requirements of the *Subordinate Legislation Act 1994*, including the public consultation requirements in relation to Regulatory Impact Statements prepared for regulations.

It inserts a savings provision which changes terminology from ‘enforcement officer’ to ‘authorised officer.’ [52]

Part 3 – Amendment of the *Gas Safety Act 1997* – Part 4 – Amendment of the *Pipelines Act 2005* – Part 5 – Amendment of the *Energy Safe Victoria Act 2005* – Part 6 – Amendment of other Acts – Part 7 – Amendment of *Land Act 1958* – Part 8 – Repeal of the Act

It makes like amendments to the *Gas Safety Act 1997*. It repeals the requirement for authorised officers to obtain written consent from ESV before exercising enforcement powers. An authorised officer may request the assistance of any person for the purpose of exercising entry powers. [60,61] A court may grant an injunction on application by ESV or a prescribed person. The Supreme Court may grant an injunction restraining a person from carrying on a business that involves carrying out any regulated activity. Consent and interim injunctions may be granted. [62] Where a penalty for an infringement offence is not otherwise prescribed, the infringement penalty for an offence against provision of the *Gas Safety Act 1997* or regulations prescribed for the purpose of Part 6A is one-tenth of the maximum monetary penalty fixed by the provision. [64] It increases penalties in various provisions. [65-79] The court may make adverse publicity orders. [80] It changes terminology from ‘inspector’ to ‘authorised officer’. [81]

Part 4 amends the *Pipelines Act 2005*. An inspector may apply to a magistrate for the issue of a warrant. The warrant may authorise entry onto any land or premises (including residential premises) if it is suspected on reasonable grounds there is a risk to health or safety of any person arising from a pipeline operation or other specified matters. An announcement must be made before entry and a receipt given for anything seized. [84,85-89] ESV may apply to the court for an adverse publicity order. [91] Part 5 amends the *Energy Safe Victoria Act 2005*. ESV must submit a corporate plan every three years rather than every year. Annual updates must be made in the intervening years to the Minister and the Treasurer. [92-94] Part 6 contains transitional provisions. [95] It makes consequential amendments to other Acts in Schedules 1-3. This includes the substitution of references to ‘enforcement officer’ and ‘inspector’ with ‘authorised officer’. [96]

Part 7 inserts new section 134B into the *Land Act 1958*. Subdivision 1 of Division 9 provides the Minister may lease Crown land under that part for non-agricultural purposes. New section 134B provides the Minister may enter an agreement and lease land in spite of certain *Environment Effects Act 1978* requirements.<sup>34</sup> Note the Second Reading Speech:-

The Bill will provide the Minister for Environment with the power to enter into an agreement to lease under section 134 of the Land Act for projects on unreserved Crown land that are subject to the

<sup>34</sup> Section 3 of the *Environmental Effects Act 1978* (EEA) applies to works that are declared public works by Order of the Minister published in the Government Gazette. The Minister must not make an Order unless the Minister is satisfied the works could be reasonably considered to have or be capable of having a significant effect on the environment (section 4). The proponent of the work must prepare for the Minister an Environmental Effects Statement (EES). The Minister may call for a supplementary statement at any time (section 5). A person or body may seek the Minister’s advice whether a statement should be prepared for the works (section 8). If a matter comes to the Minister under section 8, the Minister may direct the relevant decision maker not to make the decision until the Minister has received advice (section 8A). The Minister must decide whether a statement should be prepared and give notice in writing. (section 8B). If the Minister gives a notice under section 8B advising that a statement should be prepared subsection (a) states the works must not proceed. Subsection (1)(b) of section 8C specifies that no decision can be made under an Act or law by that person or body in relation to the works until— (i) the proponent has caused the statement to be prepared and submitted to the Minister for the Minister’s assessment of the environmental effects of the works; (ii) the assessment has been considered by that person or body. (2) Sections 4(3), 5, 6(1) and 6(3) apply to the preparation of a statement referred to in subsection (1).

*Environment Effects Act 1978*. These types of projects are proposed only once or twice a year but may have strategic importance to Victoria. Increasing certainty about future land tenure for proponents of complex projects seeks to support further investment in EES processes and future project needs. The reforms in the Bill seek to provide that certainty by removing any doubt that the Minister for Environment can enter into Agreements to Lease in these specific, limited circumstances where a project is proposed on unreserved Crown land that is also subject to the robust Environmental Effects Act regime.

### **Comments under the PCA**

The Committee makes no comment pursuant to its terms of reference under section 17 of the *Parliamentary Committees Act 2003*.

### **Charter Issues**

The Bill is compatible with the rights set out in the *Charter of Human Rights and Responsibilities Act 2006*.

## Regulatory Legislation Amendment (Reform) Bill 2025

<b>Member</b>	Hon Danny Pearson MP	<b>Introduction Date</b>	4 February 2025
<b>Portfolio</b>	Finance	<b>Second Reading Date</b>	5 February 2025

### Summary

The Bill amends a number of Acts over a range of portfolios. Note the Second Reading Speech:-

Annual regulatory omnibus bills help ensure that Victoria has a modern, adaptive and fit-for – purpose regulatory system. This particular Bill, following on from the *Regulatory Legislation Amendment (Reform) Act 2023* (and a similar 2022 Act), is an example of collaborative efforts across government to identify and make incremental improvements to the current Victorian regulatory system. This Bill includes almost forty proposals across 14 different Acts – and ten ministerial portfolios... Firstly, the Bill will support effective and efficient regulation... The second objective of the Bill is to promote consistency with other legislation and existing government policies... The third objective of the Bill is to streamline processes and reduce administrative burdens for government, businesses and individuals... Lastly, the Bill seeks to make a number of minor updates and corrections to existing legislation.

Part 2 – Amendment of the *Adoption Act 1984* – Part 3 – Amendment of *Children, Youth and Families Act 2005* – Part 4 – *Circular Economy (Waste Reduction and Recycling) Act 2021* – Part 5 – Amendment of *Commissioner for Environmental Sustainability Act 2003* – Part 6 – Amendment of *Domestic Animals Act 1994*

Clause **[2]** is the commencement provision. The Secretary may disclose adoption records to a court, tribunal, or an investigatory body in response to an authorised request or in prescribed circumstances. (See new section 97A(3))<sup>35</sup> **[4]** The Secretary has a discretion not to disclose information if it is reasonably believed it is likely to cause harm or increase any risk to a person’s safety from family violence. **[5]** The Secretary may request access to adoption records<sup>36</sup> from the Registrar. Part 3 amends the *Children, Youth and Families Act 2005* to clarify that an authorisation<sup>37</sup> made by the Secretary includes Aboriginal children and their non-aboriginal siblings. **[10,11]**

Part 4 updates the list of civil penalty provisions for which a civil penalty order can be made by a court and penalties in the *Circular Economy (Waster Reduction and Recycling) Act 2021*.<sup>38</sup> Part 5 amends the *Commissioner for Environmental Sustainability Act 2003*. The Commissioner for Environmental Sustainability may engage in other paid duties outside the Commissioner’s duties if that employment is approved by the Minister. **[13]** Part 6 amends the *Domestic Animals Act 1994*. It requires owners of dangerous or restricted dog breeds to notify the local council if the dog has died or moved residence.

<sup>35</sup> See new section 97A(3). Note the Explanatory memorandum:- ‘New section 97A(3) of the *Adoption Act 1984* provides that the Secretary may disclose the information prescribed in this provision with respect to an adoption, if the adopted person is a minimum of 18 years of age or is deceased, on an application under section 97 of the *Adoption Act 1984*. Section 97 provides for a natural relative of an adopted person to apply for information about the adopted person.’

<sup>36</sup> Note section 76 provides the Register of Adoptions is not open for inspection other than upon application. Note the Explanatory memorandum:- ‘It is intended that the power for the Registrar to make the specified information available to the Secretary is not conditional upon the existence of a request for adoption records by a separate applicant.’

Note the Second Reading Speech:- ‘The proposal would enable the Registrar to share copies of the Register of Adoptions and related indexes prior to 2019, all Adoption Orders prior to 2019, and court records of adoption orders in the Registrar’s possession.’

<sup>37</sup> An authorisation from the Secretary enables the principal officer of an Aboriginal agency to perform certain specified powers and functions in relation to a class of children. See section 18 of the *Children, Youth and Families Act 2005*.

<sup>38</sup> Note the Second Reading Speech:- ‘...to reflect new provisions introduced by the *Environment Legislation Amendment (Circular Economy and Other Matters) Act 2022* which are already in force.’

Infringement notices may be issued for some offences. The Minister may delegate specified powers to any employee employed under the *Public Administration Act 2004*. [14-26]

Part 7 – Amendment of *Electricity Industry Act 2000* – Part 8 – Amendment of *Environment Protection Act 2017* (EPA) – Part 9 – Amendment of *Essential Services Commission Act 2001* – Part 10 – Amendment of *Housing Act 1983* – Part 11 – Amendment of Mineral Resources Legislation – Part 12 – Amendment of *Service Victoria Act 2018* – Part 13 – Amendment of *Subdivision Act 1988* – Part 14 – Amendment of *Transfer of Land Act 1958* – Part 15 – Amendment of *Water Act 1989* – Part 16 – Repeal of the Act

Part 7 amends the *Electricity Industry Act 2000* to improve administrative arrangements. [27-29] Note the Second Reading Speech:-

Through amendments to the *Electricity Industry Act 2000* (EI Act), the Bill will enable the ESC to make determinations later in the year, using more current data and so that determinations can be made closer to the start of the financial year to which it applies. Amendments to the EI Act, will also remove the requirement of licensees who are authorised to sell electricity to report on how many small renewable energy generation facilities sold electricity to them and how much electricity the licensee bought. This reduces unnecessary administrative burden on businesses, noting that much of this data is publicly available through other sources. Amendments in the Bill will also remove the requirement for the Department of Energy, Environment and Climate Action to report on this annually.

Part 8 amends the EPA to make it simpler for individuals and businesses which have provided financial assurance to the Environment Protection Authority where it is intended to refund the assurance in full.<sup>39</sup> It replaces the current two term limit for board members with a cumulative limit of 10 years and makes provision for other procedural arrangements. [30-39] It amends section 116 which sets out with whom liability rests in respect of an offence against various provisions for the unlawful deposit of waste.<sup>40</sup> [32] Part 9 establishes an explicit six year limitation period for the Essential Services Commission (ESC) to commence civil penalty proceedings. [40] Part 10 repeals Part 1 of Schedule 8 to the *Housing Act 1983*.<sup>41</sup> [41]

Part 11 amends the *Mineral Resources (Sustainable Development) Amendment Act 2023* to include an additional ground for cancelling an extractive industry work authority consistent with grounds for cancelling a minerals licence.<sup>42</sup> [50] It makes amendments to ensure the confidentiality of commercially sensitive information in work plans prior to the commencement of the *Mineral Resources (Sustainable Development) Amendment Act 2023*. [51,52] It also corrects references to superseded technology and removes redundant references. [42-48]

Part 12 introduces a power for Service Victoria to charge specified fees for its services under the *Service Victoria Act 2018*. New fees will be prescribed by regulation and subject to consultation through the

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<sup>39</sup> Note Proof *Hansard*, Legislative Assembly, 5 February 2025, Regulatory Legislation Amendment (Reform) Bill 2025, Second Reading Speech at page 28.

<sup>40</sup> Note the Statement of Compatibility:- 'Part 8 of the Bill is a proposal to amend the *Environment Protection Act 2017* to enable the EPA to utilise its discretion to charge a business and/or the business owner where the EPA believes that the business should be held responsible for larger scale deposit of waste, even where the driver is able to be charged. Currently, section 116(5) provides that a court must not find a registered owner or authorised user guilty of an offence for depositing waste from a vehicle unless it is not possible to charge the driver for the offence. The current provision is appropriate for small-scale littering from a vehicle but not larger-scale deposit of waste where the business and/or the business owner is typically the registered owner or authorised user of company vehicles.'

<sup>41</sup> Note the Second Reading Speech:- 'The Bill will save registered housing agencies from needing to provide bank account details to the Housing Registrar for inclusion in the Register of Housing Agencies. These details are generally unnecessary and holding them poses unnecessary information security risks to both the Registrar and the registered agencies. Where the Housing Registrar does need access to these details, alternative means to request them already exist. These improvements will be made through amendments to the *Housing Act 1983*.'

<sup>42</sup> Op. Cit., Proof *Hansard*, Legislative Assembly, 5 February 2025, Second Reading Speech at page 27. Note this is where the holder has not substantially complied with the new duty to eliminate or minimise the risk of certain harms.

regulatory impact statement process. **[53,54]** Part 13 amends section 43, the existing regulation making power in the *Subdivision Act 1988*. Regulations may prescribe fees for services provided by the Registrar. They are not limited to cost recovery but may also be based on the value of the service being provided by the Registrar.<sup>43</sup> **[55]**

Part 14 updates various provisions in the *Transfer of Land Act 1958* relating to the paper requirements for conveyancing transactions to reflect current electronic practices. **[56]** It amends section 120, the existing regulation making power. Regulations may prescribe fees for services. They are not limited to cost recovery and may include the value of the service being provided. Regulations may incorporate or adopt other material as formulated, issued, prescribed or published. **[59]** It clarifies the Registrar's ability to seek assurance contributions. These are applied at the Registrar's discretion in the case of higher risk transactions. **[57]** Part 15 amends the *Water Act 1989*. It provides for variation of a corporate plan in specified circumstances. It enables the Minister to accommodate certain circumstances which may prevent Water Holders from providing the necessary information 2 months before the start of the financial year. **[61,62]** Part 16 provides for the repeal of the Act. **[63]**

### **Comments under the PCA**

The Committee makes no comment pursuant to its terms of reference under section 17 of the *Parliamentary Committees Act 2003*.

### **Charter Issues**

The Bill is compatible with the rights set out in the *Charter of Human Rights and Responsibilities Act 2006*.

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<sup>43</sup> Note the Explanatory memorandum:- 'This amendment aligns with the changes being made to the *Transfer of Land Act 1958*.'



# **Report on Subordinate Legislation**

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**SR No. 40 – Subordinate Legislation (Forest (Fire Protection) Regulations 2014)  
Extension Regulations 2024**

**SR No. 66 – Honorary Justices Regulations 2024**

**SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024**

**Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses**

The Committee received correspondence from Ministers in relation to the above subordinate legislation.

The Committee thanks Ministers for the attached information.

The correspondence is reproduced.



# Scrutiny of Acts and Regulations Committee

16 October 2024

The Hon. Steve Dimopoulos  
Minister for Environment  
Level 16  
8 Nicholson Street  
East Melbourne  
Victoria, 3002

By email: [reception.dimopoulos@deeca.vic.gov.au](mailto:reception.dimopoulos@deeca.vic.gov.au)

Dear Minister

## **SR No. 40 – Subordinate Legislation (Forests (Fire Protection) Regulations 2014) Extension Regulations 2024**

The Regulations Review Subcommittee (the Subcommittee) of the Scrutiny of Acts and Regulations Committee (the Committee) considered the above statutory rule at a meeting on 14 October 2024.

The Subcommittee resolved to raise one matter with you about the Subordinate Legislation (Forests (Fire Protection) Regulations 2014) Extension Regulations 2024 (the Regulations).

### [Subordinate Legislation \(Forests \(Fire Protection\) Regulations 2014\) Extension Regulations 2024](#)

The Regulations were made under sections 5A and 28 of the *Subordinate Legislation Act 1994* (the SLA) on 4 June 2024.

The Regulations extend the operation of the Forests (Fire Protection) Regulations 2014 for 12 months until 8 June 2025. The extension is granted to allow two projects to be completed that may affect the policy expressed in the Regulations.

### [Timeliness in providing material to the Committee](#)

When a statutory rule is made, section 15A of the SLA requires the responsible Minister to provide specified documentation to the Committee. Subsection (2) requires these documents to be sent to the Committee no later than 10 working days after the statutory rule is made.

The documentation accompanying the Regulations was received by the Committee on 5 July 2024. This is 22 working days after the Regulations were made, i.e. 12 working days after the statutory deadline.

Under section 15A(3) of the SLA, failure to provide this material to the Committee within the timeframe does not affect the operation of the statutory rule. However, the Subcommittee notes that timeliness in sending material to the Committee is important to allow the Committee (via delegation to the Subcommittee) to discharge its scrutiny function. Failure to provide documentation within the timeframe undermines the Subcommittee's ability to consider regulations within the disallowance timeframe.

The Subcommittee wishes to reiterate the importance in providing material accompanying regulations to the Committee within 10 working days, as required by section 15A of the SLA.

### Response

The Subcommittee would appreciate your response no later than Tuesday, 29 October 2024.

Thank you for your assistance with these matters. If you have any questions, please contact the Subcommittee's secretariat at [SARC@parliament.vic.gov.au](mailto:SARC@parliament.vic.gov.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gary Maas', with a horizontal line underneath.

Gary Maas, MP  
Chair  
Scrutiny of Acts and Regulations Committee



Steve Dimopoulos MP

Minister for Environment  
Minister for Tourism, Sport and Major Events  
Minister for Outdoor Recreation

PO Box 500  
East Melbourne VIC 8002

MIN-241004356

Mr Gary Maas MP  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3002

Dear Chair

**SR No. 40 – Subordinate Legislation (Forests (Fire Protection) Regulations 2014) Extension Regulations 2024**

Thank you for your letter of 16 October 2024 regarding the delay in providing the Scrutiny of Acts and Regulations Committee (SARC) with documentation relating to the Subordinate Legislation (Forests (Fire Protection) Regulations 2014) Extension Regulations 2024. I apologise for the delay in responding.

I acknowledge that documentation accompanying a statutory rule made under section 15A of the *Subordinate Legislation Act 1994* (SLA) requires the responsible Minister to provide accompanying documents to SARC no later than 10 working days after the statutory rule is made.

It is not my or the Department of Energy, Environment and Climate Action's (DEECA) intention to impact SARC's ability to fulfill its functions with respect to the Regulations. I apologise for the late provision of documents in contravention of the Act.

I have raised this matter with the relevant area of DEECA and understand that the delay was due to a misreading of the statutory process. I have asked DEECA to ensure that relevant staff are familiar with the statutory process so that similar delays do not occur in the future.

If the Committee has any further questions, please contact Ms Jess Chandler, A/Director Fire and Emergency Management Policy, DEECA via email at [jess.chandler@deeca.vic.gov.au](mailto:jess.chandler@deeca.vic.gov.au).

Thank you, once again, for raising this important matter with me.

Yours sincerely

Steve Dimopoulos MP  
Member for Oakleigh  
Minister for Environment

7/12/24





# Scrutiny of Acts and Regulations Committee

6 November 2024

The Hon. Jaclyn Symes  
Minister for Emergency Services  
Level 26, 121 Exhibition Street  
Melbourne  
Victoria, 3000

By email: [attorney-general@justice.vic.gov.au](mailto:attorney-general@justice.vic.gov.au)

Dear Attorney-General

## **SR No. 66 – Honorary Justices Regulations 2024**

The Regulations Review Subcommittee (the Subcommittee) of the Scrutiny of Acts and Regulations Committee considered the above statutory rule at a meeting on 4 November 2024.

The Subcommittee resolved to raise one matter with you about the Honorary Justices Regulations 2024 (the Regulations).

### [Honorary Justices Regulations 2024](#)

The Regulations were made under section 49 of the *Honorary Justices Act 2014* on 2 July 2024. The Regulations revoke and replace the Honorary Justices Regulations 2014 (the 2014 Regulations) in substantially the same form.

The Regulations prescribe:

- oaths and affirmations to be taken by justices of the peace and bail justices
- training courses and professional development for honorary justices, justices of the peace, and bail justices
- office holders who are automatically bail justices
- a code of conduct for honorary justices.

### [Application of section 6 of the Subordinate Legislation Act 1994](#)

The Regulations are accompanied by an explanatory memorandum that outlines the effect of the Regulations. The explanatory memorandum states:

“Formal consultation was not required under the Premier’s Guidelines issued under the Subordinate Legislation Act 1994 as the proposed Regulations would not impose a significant economic or social burden on a sector of the

public. As best practice, Victoria Police, honorary justices, the Royal Victorian Association of Honorary justices, and the youth justice portfolio within Department of Justice and Community Safety were consulted as part of the process to remake the proposed Regulations.”

The [Subordinate Legislation Act 1994 Guidelines](#) (the Guidelines) provide that initial consultation should be undertaken if regulations are exempt from preparing a regulatory impact statement under section 8(1)(a) of the *Subordinate Legislation Act 1994* (the SLA).<sup>1</sup> Initial consultation allows the Minister to gather evidence to determine whether the regulations impose a significant burden on a sector of the public.<sup>2</sup> Paragraph 91 of the Guidelines states that: “the responsible Minister must ensure that where these Guidelines require initial consultation, a certificate of consultation is issued.”<sup>3</sup>

The Regulations are exempt under section 8(1)(a). The explanatory memorandum, quoted above, shows that initial consultation occurred. However, no consultation certificate was issued in this case.

Section 15 of the SLA provides that failure to table, or provide the Subcommittee with, a section 6 consultation certificate does not affect the operation or effect of the Regulations.

The Subcommittee requests your advice on the application of section 6 of the SLA and the Guidelines to the Regulations.

## Response

The Subcommittee would appreciate your response no later than Friday, 15 November 2024.

Thank you for your assistance with these matters. If you have any questions, please contact the Subcommittee’s secretariat at [SARC@parliament.vic.gov.au](mailto:SARC@parliament.vic.gov.au).

Yours sincerely,



Gary Maas, MP  
Chair  
Scrutiny of Acts and Regulations Committee

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<sup>1</sup> Department of Premier and Cabinet, *Subordinate Legislation Act 1994 Guidelines*, <<https://www.parliament.vic.gov.au/491876/globalassets/taled-paper-documents/taled-paper-7465/subordinate-legislation-act-1994-guidelines-september-2023.pdf>> accessed 21 October 2024, p. 32.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid, p. 24.



Jaclyn Symes MP

Attorney-General  
Minister for Emergency Services

121 Exhibition Street  
Melbourne Victoria 3000  
Telephone: +61 3 8684 1111

Our ref: 24110678

Mr Gary Maas, MP  
Chair  
Scrutiny of Acts and Regulations Committee  
EAST MELBOURNE VIC 3002

Dear Mr Maas

#### **Inquiry on SR No. 66 – Honorary Justice Regulations 2024**

Thank you for your letter dated 6 November 2024 regarding the making of the Honorary Justice Regulations 2024 (Regulations).

The Scrutiny Acts and Regulations Committee has inquired on the absence of a consultation certificate per section 6 of the *Subordinate Legislation Act 1994*. I confirm that the omission of the section 6 certificate was an oversight and apologise for the omission.

The Regulations received an exemption to the preparation of a regulatory impact statement (RIS) under section 8(1)(a) of the *Subordinate Legislation Act 1994* as I was satisfied that the Regulations would not impose a significant economic or social burden on a sector of the public.

As noted in the Regulations' explanatory memorandum and referred to in your letter, consultation was undertaken as a matter of best practice. The consultation with Victoria Police, the honorary justice cohort, the Royal Victorian Association of Honorary Justices and the youth justice portfolio informed my view that an exemption under section 8(1)(a) was warranted.

In alignment with the information that is ordinarily provided in a section 6 certificate I confirm that:

- the consultation was undertaken in accordance with the Premier's Guidelines made under the *Subordinate Legislation Act 1994*, and the matters dealt with under the Honorary Justice Regulations 2024 do not impinge upon or unduly affect the area of responsibility of any other Minister, and there is no overlapping or duplication of, or

conflict with, the legislation, statutory rules or stated government policies administered by other agencies, and

- the need for, and scope of the proposed Honorary Justice Regulations 2024 have been considered and relevant sectors of the public have been consulted in accordance with the Premier's Guidelines made under the *Subordinate Legislation Act 1994*.

I apologise for any inconvenience this may have caused. As noted in your letter, this oversight does not affect the operation or effect of the Regulations.

If you wish to discuss this matter further, please contact Patricia Athanasiadis, Director, Justice System and Policy Reform, DJCS at [patricia.athanasiadis@justice.vic.gov.au](mailto:patricia.athanasiadis@justice.vic.gov.au).

Yours sincerely



**Jaclyn Symes MP**  
Attorney-General  
Minister for Emergency Services

17 / 12 / 2024



# Scrutiny of Acts and Regulations Committee

13 December 2024

The Hon. Jaclyn Symes  
Attorney-General  
Level 26, 121 Exhibition Street  
Melbourne  
Victoria, 3000

By email: [attorney-general@justice.vic.gov.au](mailto:attorney-general@justice.vic.gov.au)

Dear Attorney-General

## **SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024**

The Regulations Review Subcommittee (Subcommittee) of the Scrutiny of Acts and Regulations Committee (Committee) considered SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024 (Rules) at a meeting on 3 December 2024.

The Rules implement a new costs model for the Supreme Court and County Court based on time costing. The amendments result from the Courts' 2021 review of litigious costs and associated recommendations.

The Subcommittee draws your attention to section 15A of the *Subordinate Legislation Act 1994* (SLA).

Section 15A of the SLA requires the responsible Minister to provide specified documentation to the Committee no later than 10 working days after the statutory rule is made. The Rules were made on 5 September 2024. The specified documentation was received by the Subcommittee on 25 September 2024, 14 working days after the Regulations were made.

Pursuant to section 15A(3) of the SLA, failure to provide this material to the Committee within the timeframe does not affect the operation of the statutory rule. However, the Subcommittee notes that timeliness in sending material to the Committee is important to facilitate effective parliamentary oversight of subordinate legislation.

### **Response**

The Subcommittee would appreciate your response by Monday, 3 February 2025.

Thank you for your assistance. Please do not hesitate to contact the secretariat at [SARC@parliament.vic.gov.au](mailto:SARC@parliament.vic.gov.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gary Maas', is centered below the text.

Gary Maas, MP  
Chair  
Scrutiny of Acts and Regulations Committee



The Hon. Sonya Kilkenny MP

Attorney-General  
Minister for Planning

121 Exhibition Street  
Melbourne Victoria 3000  
Telephone: +61 3 8684 1111

Our ref: 24122393

Gary Maas MP  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3002

Dear Mr Maas

Thank you for your letter to the former Attorney-General, the Hon Jaclyn Symes MP regarding SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024. I apologise for the delay in responding to you.

Thank you for your advice regarding the requirement to provide specified documents to the Committee no later than 10 working days after a statutory rule is made. I note that timeliness in sending this material to the Committee is important to facilitate effective parliamentary oversight of subordinate legislation and will endeavour to meet the timeframe going forward.

Yours sincerely

**The Hon. Sonya Kilkenny MP**  
Attorney-General  
Minister for Planning

Date: 10/2/2025



# Scrutiny of Acts and Regulations Committee

6 November 2024

The Hon. Ros Spence  
Minister for Agriculture  
Level 22, 50 Lonsdale Street  
Melbourne  
Victoria, 3000

By email: [ros.spence@parliament.vic.gov.au](mailto:ros.spence@parliament.vic.gov.au)

Dear Minister,

## **Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses**

The Regulations Review Subcommittee (the Subcommittee) of the Scrutiny of Acts and Regulations Committee (the Committee) considered the above legislative instrument at a meeting on 4 November 2024.

The Subcommittee resolved to raise one matter with you about the Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses (the Determination).

### [Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses](#)

The Determination was made by Dairy Food Safety Victoria under the *Dairy Act 2000* (the Act) on 15 July 2024. The Determination sets classes of dairy licences and fixes fees for those licence classes for the 2024-25 financial year.

### [Potential retrospectivity of the Determination](#)

The Determination sets fees for dairy licence classes from 1 July 2024 to 30 June 2025. Clause 2 of the Determination provides that the LI comes into effect on 1 July 2024.

It appears that the Determination may have retrospective effect. The Determination came into effect on 1 July but was made after that date on 15 July 2024. The effect may be that a holder of a dairy licence would be required to pay fees for the period from 1 July, when the authority for issuing fees was made later that month. The regulation-making powers in the Act do

not explicitly confer authority for the Determination to be made retrospectively.

Section 25A(1)(b)(i) of the *Subordinate Legislation Act 1994* provides that the Committee may report to Parliament if it considers a legislative instrument has retrospective effect, without clear and express authority being conferred by the authorising Act.

The Subcommittee wishes to draw your attention to the retrospective commencement date of 1 July 2024. The Subcommittee also seeks further information on the retrospective operation and effect of the Determination.

### Response

The Subcommittee would appreciate your response no later than Friday, 15 November 2024.

Thank you for your assistance with these matters. If you have any questions, please contact the Subcommittee's secretariat at [SARC@parliament.vic.gov.au](mailto:SARC@parliament.vic.gov.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gary Maas', with a horizontal line underneath.

Gary Maas, MP  
Chair  
Scrutiny of Acts and Regulations Committee



## The Hon. Ros Spence MP

Minister for Agriculture  
Minister for Community Sport  
Minister for Carers and Volunteers

GPO Box 4509  
Melbourne, Victoria 3001 Australia  
Telephone: 1300 622 308

MBR-241101515

Gary Maas MP  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3002

By email: [SARC@parliament.vic.gov.au](mailto:SARC@parliament.vic.gov.au)

Dear Mr Maas MP

Thank you for your letter of 6 November 2024 on behalf of the Scrutiny of Acts and Regulations Committee (SARC) concerning the Dairy Food Safety Victoria (DFS) Determination of Licence Classes and Fees for Dairy Businesses (the Determination).

SARC provides a valuable and important contribution to the legislative process, and I thank you for your considered comments. I provide the following in response to SARC's query.

### **Query**

SARC has sought further information on the potential retrospectivity of the Determination. Clause 2 of the Determination provides that the legislative instrument comes into effect on 1 July 2024. SARC notes that it appears that the Determination may have retrospective effect, as it was only made on 15 July 2024.

SARC further notes that the effect of this may be that a holder of a dairy licence would be required to pay fees for the period from 1 July 2024, when the authority for issuing such fees was made later that month. The legislative instrument-making powers in the *Dairy Act 2000* (Dairy Act) does not explicitly confer authority for the Determination to be made retrospectively.

### **Response**

The Determination was intended to be consistent with the previous 'Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses' published in the Victoria Government Gazette No. S306 on 16 June 2023. This applied for the period 1 July 2023 until 30 June 2024. In the interests of continuity, clause 2 of the Determination stipulated a commencement date of 1 July 2024 following the expiry of the previous Determination of 30 June 2024.

The original intention was to gazette the instrument on 1 July 2024, however the Determination was made and published in the Victoria Government Gazette on 15 July 2024 and no change was made to clause 2 of the Determination to update the commencement date, leading to the discrepancy of dates raised in your correspondence.



The Determination is a legislative instrument for the purposes of the *Subordinate Legislation Act 1994* (SLA) and as such, only came into legal effect once it was published in the Victoria Government Gazette as required under section 16A of the SLA. As it was in fact made and published in the Victoria Government Gazette on 15 July 2024, it only has legal force from this date and the inadvertent reference to 1 July 2024 is redundant.

The Determination was not intended to be retrospective, and even if it purported to have retrospective effect, I am of the view this does not render the Determination to be invalid in its entirety. Section 22 of the *Interpretation of Legislation Act 1984* (ILA) operates to ensure that clause 2 of the Determination is narrowly construed. Section 22(1) of the ILA provides that every subordinate instrument shall be construed as operating to the full extent of, but so as not to exceed –

- (a) the legislative power of the State of Victoria or
- (b) the power to make the subordinate instrument conferred by the Act under or pursuant to which it is made.

It is the intent that where a provision of a subordinate instrument would, but for this section, have been construed as being in excess of that power; it shall nevertheless be a valid provision to the extent to which it is not in excess of that power. Therefore, the remainder of the subordinate instrument and the remainder of that provision shall not be affected.

In applying section 22(1) of the ILA, the commencement date of 1 July 2024 contained in clause 2 of the Determination is 'read down' as it only has effect on making and gazettal from 15 July 2024. Therefore, provisions in the Determination come into effect on 15 July 2024 and not 1 July 2024. That is, a narrow interpretation should be adopted. As the Dairy Act does not expressly confer authority for a subordinate instrument to be made retrospectively, the commencement of the Determination will be 'read down' to be the date on which the Determination was made, being the 15 July 2024 and not 1 July 2024. The remaining clauses in the Determination will nevertheless be valid to the extent they are not in excess of the powers conferred by the Dairy Act to make the Determination, in accordance with section 22(1) of the ILA. This confirms the validity of the Determination.

Notwithstanding the above, I confirm that, on the advice of DFSV, the new fees set in the Determination were not charged to dairy licensees prior to the Determination being made on 15 July 2024.

The new fee schedule was not used to charge licence applicants by DFSV until 1 August 2024, as the annual dairy licence application renewal process does not begin until that time. No fees were charged by the DFSV until after 1 August 2024. This was communicated directly to existing licensees via email and the wider public by publication on the DFSV website. As a result, the fees were in fact charged prospectively.

I hope that this additional information is of assistance and provides clarity to SARC.

Yours sincerely



**The Hon. Ros Spence MP**  
Minister for Agriculture

6.12.24



# Appendix 1

## Index of Bills and Subordinate Legislation in 2025

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<b>BILLS</b>	<b>Alert Digest Nos.</b>
Agriculture and Food Safety Legislation Amendment Bill 2024	13 of 2024, 1
Constitution Amendment (Abortion) Bill 2024	2
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	1
Energy and Land Legislation Amendment (Energy Safety) Bill 2025	2
Gambling Legislation Amendment (Pre-commitment and Carded Play) Bill 2024	1
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024	1
Justice Legislation Amendment (Committals) Bill 2024	15 of 2014, 1
Protecting Public Assets and Services Bill 2024	13 of 2024
Regulatory Legislation Amendment (Reform) Bill 2025	2
Retirement Villages Amendment Bill 2024	1
Roads and Road Safety Legislation Amendment Bill 2024 [House Amendments]	15 of 2024, 1
State Taxation Further Amendment Bill 2024	15 of 2024
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024	1
Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024	16 of 2024, 1
 <b>SUBORDINATE LEGISLATION</b>	
SR No. 30 – Transport (Safety Schemes Compliance and Enforcement) (Infringements) Regulations 2024	1
SR No. 40 – Subordinate Legislation (Forest (Fire Protection) Regulations 2014) Extension Regulations 2024	2
SR No. 59 – Building Amendment (Fees and Other Matters) Regulations 2024	1
SR No. 66 – Honorary Justices Regulations 2024	2
SR No. 83 – Supreme Court (Chapter I Costs Amendment) Rules 2024	2
Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses	2
Ministerial Order No. 1452 – Fees for Services Provided to Children in Government Early Learning Centres	1



## Appendix 2

# Committee Comments classified by Terms of Reference

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This Appendix lists Bills under the relevant Committee terms of reference where the Committee has raised issues requiring clarification from the appropriate Minister or Member.

**Alert Digest Nos.**

### Section 17(a)

**(i) trespasses unduly upon rights or freedoms**

Agriculture and Food Safety Legislation Amendment Bill 2024	13 of 2024, 1
Constitution Amendment (Abortion) Bill 2024	2
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	1
Justice Legislation Amendment (Committals) Bill 2024	15 of 2024, 1
Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024	16 of 2024, 1

**(viii) is incompatible with the human rights set out in the Charter of Human Rights and Responsibilities**

Agriculture and Food Safety Legislation Amendment Bill 2024	13 of 2024, 1
Constitution Amendment (Abortion) Bill 2024	2
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	1
Protecting Public Assets and Services Bill 2024	13 of 2024
Roads and Road Safety Legislation Amendment Bill 2024 [House Amendments]	15 of 2024, 1
State Taxation Further Amendment Bill 2024	15 of 2024
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024	1



## Appendix 3

# Table of Ministerial Correspondence

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### *Table of correspondence between the Committee and Ministers or Members*

This Appendix lists the Bills where the Committee has written to the Minister or Member seeking further advice, and the receipt of the response to that request.

<b>Bill Title</b>	<b>Minister/ Member</b>	<b>Date of Committee Letter / Minister's Response</b>	<b>Alert Digest No. Issue raised / Response Published</b>
Agriculture and Food Safety Legislation Amendment Bill 2024	Agriculture	15-10-24 04-12-24	13 of 2024 1 of 2025
Protecting Public Assets and Services Bill 2024	Samantha Ratnam MP	15-10-24	13 of 2024
Justice Legislation Amendment (Committals) Bill 2024	Attorney-General	12-11-24 27-11-24	15 of 2024 1 of 2025
Roads and Road Safety Legislation Amendment Bill 2024 [House Amendments]	Roads and Road Safety	12-11-24 04-12-24	15 of 2024 1 of 2025
State Taxation Further Amendment Bill 2024	Treasurer	12-11-24	15 of 2024
Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024	Casino, Gaming and Liquor Regulation	02-12-24 21-01-25	16 of 2024 1 of 2025
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	Consumer Affairs	05-02-25	1 of 2025
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024	Police	05-02-25	1 of 2025
Constitution Amendment (Abortion) Bill 2024	Sarah Mansfield MP		2 of 2025



## Appendix 4

# Statutory Rules and Legislative Instruments considered

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The following subordinate legislation was considered by the Subcommittee on 12 February 2025.

### **Statutory Rules Series 2024**

- SR No. 87 – Seafood Safety Regulations 2024
- SR No. 88 – County Court (Oath and Affirmation of Office) Regulations 2024
- SR No. 89 – Supreme Court (Oath and Affirmation of Office) Regulations 2024
- SR No. 90 – Credit Regulations 2024 Possible Letter
- SR No. 91 – Credit (Administration) Regulations 2024
- SR No. 92 – Local Government (Infringement Notices) Regulations 2024
- SR No. 93 – Valuation of Land Regulations 2024
- SR No. 94 – Sex Offenders Registration Regulations 2024
- SR No. 95 – Livestock Disease Control Further Amendment Regulations 2024
- SR No. 96 – Bus Safety Amendment Regulations 2024
- SR No. 97 – Transport (Compliance and Miscellaneous) (Infringements) Amendment Regulations 2024
- SR No. 98 – Transport (Safety Schemes Compliance and Enforcement) Act 2014
- SR No. 99 – Subordinate Legislation (Country Fire Authority Regulations 2014) Extension Regulations 2024
- SR No. 100 – Planning and Environment (Fees) Amendment Regulations 2024
- SR No. 101 – Road Safety Road Rules Amendment (Electric Scooters) Rules 2024
- SR No. 102 – Road Safety (General) Amendment (Electric Scooters) Regulations 2024
- SR No. 103 – Status of Children Regulations 2024
- SR No. 104 – Electricity Industry (Penalty Regime) Amendment Regulations 2024
- SR No. 105 – Gas Industry (Penalty Regime) Amendment Regulations 2024
- SR No. 106 – Building Amendment Regulations 2024
- SR No. 107 – Planning and Environment Amendment Regulations 2024
- SR No. 108 – Subordinate Legislation (Gambling Regulation (Pre-commitment and Loyalty Scheme) Regulations 2014) Extension Regulations 2024
- SR No. 109 – Victorian Energy Efficiency Target Amendment (Induction Cooktops and Co-payments) Regulations 2024
- SR No. 110 – Royal Botanic Gardens Regulations 2024
- SR No. 111 – Borrowing and Investment Powers (Authority) Amendment Regulations 2024
- SR No. 112 – Treasury Corporation of Victoria (Prescribed Agencies) Amendment Regulations 2024

### **Legislative Instruments 2024**

- Declaration of the Dingo to be Unprotected Wildlife
- Law Society of New South Wales Professional Standards Scheme