Scrutiny of Acts and Regulations Committee

Alert Digest No. 17 of 2025

December 2025

On the following Acts and Bills

Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025

Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025

Justice Legislation Further Amendment (Miscellaneous) Bill 2025

Local Jobs First Amendment Act 2025

Victorian Early Childhood Regulatory Authority Act 2025

Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025

Parliament of Victoria

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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;

Parliamentary Committees Act 2003, section 17

Table of Contents

Committee Membership ii

Alert Digest No. 17 of 2025

Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025 1

Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025 8

Justice Legislation Further Amendment (Miscellaneous) Bill 2025 21

Victorian Early Childhood Regulatory Authority Act 2025 36

Ministerial Correspondence 39

Local Jobs First Amendment Act 2025

Victorian Early Childhood Regulatory Authority Act 2025

Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025

Appendices

1 – Index of Bills and Subordinate Legislation in 2025 53

2 – Committee Comments classified by Terms of Reference 57

3 – Table of Ministerial Correspondence 61

Parliament of Victoria, Australia

Scrutiny of Acts and Regulations Committee

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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 2025 one penalty unit equals $203.51)

'*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 or section numbers in an Act.

Alert Digest No. 17 of 2025

Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025

Member	Evan Mulholland MP	**Introduction Date**	18 November 2025
Private Member's Bill		**Second Reading Date**	19 November 2025

Summary

The Bill amends the *Control of Weapons Act* 1990 (CW Act) to provide for greater police powers for police officers to use electronic metal detection devices to search persons for weapons and for other purposes. Note the Second Reading Speech:-

> This Bill empowers police officers to stop and scan persons for prohibited weapons without a warrant in certain high risk public places, including licensed premises and their adjacent areas, public transport stations and vehicles, shopping centres, retail precincts and sporting or entertainment venues. These changes will enable officers to use handheld metal detection wands to detect and seize weapons quickly, safely and without bureaucratic barriers that currently hinder proactive policing.

Background

Section 10[1] of the CW Act makes general provision for searches by police officers without a warrant for prohibited or controlled weapons or a dangerous article. Sections 10D to 10L also make provision for police search and seizure powers in relation to both planned designated and unplanned designated

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[1] See section 10 of the *Control of Weapons Act* 1990. 10 Search without a warrant

(1) If—
  (a) a police officer has reasonable grounds for suspecting that a person is carrying or has in his or her possession in a public place a weapon contrary to this Act; and
  (b) the police officer informs the person of the grounds for his or her suspicion; and
  (c) the police officer complies with subsection (3)—
  the police officer may, without a warrant—
  (d) search the person and any vehicle or thing in his or her possession or under his or her control for the weapon; and
  (e) seize and detain any item detected during the search that the police officer reasonably suspects is a weapon.

(2) For the purposes of subsection (1)(a), the fact that a person is present in a location with a high incidence of violent crime may be taken into account in determining whether there are reasonable grounds for suspecting that the person is carrying a weapon or has a weapon in his or her possession.

(3) Before a police officer commences a search of a person under subsection (1), the police officer must—
  (a) inform the person of the police officer's name, rank and place of duty; and
  (b) if requested by the person, provide the information referred to in paragraph (a) in writing; and
  (c) produce his or her identification for inspection by the person, unless the police officer is in uniform; and
  (d) inform the person that the police officer intends to search the person or the vehicle or thing (as the case requires) for weapons and is empowered to do so under this Act.

(4) Schedule 1 applies to the search of a person or thing under this section.

(5) A police officer must conduct the least invasive search that is practicable in the circumstances.

(6) A police officer may detain a person for so long as is reasonably necessary to conduct a search under this section.

(7) In this section, weapon means—
  (a) a prohibited weapon; or
  (b) a controlled weapon; or
  (c) a dangerous article.

areas. A 'designated area'[2] means an area in respect of which a declaration under section 10D[3] or 10E[4] is in effect. Existing section 10G provides a police officer may, without a warrant, stop and search a person for weapons in a designated area. Section 10GA provides a protective services officer may, without a warrant, stop and search a person for weapons in a designated place.[5] A person may be detained for so long as is reasonably necessary to conduct a search. Schedule 1 makes provision for the conduct of searches. This includes the use of an 'electronic metal detection device'.[6]

Amendments

Clause [2] is the commencement provision. **[2]** It inserts new section 10CA. **[7]** A police officer may without warrant, stop and search a person for the possession of weapons if the person is in a relevant place. **[7] (See PCA)**.

New section 10CA provides a power for a police officer without a warrant to stop and search a person and search any thing in the possession of or under control of the person for weapons in a public place. Schedule 1 applies to the search of a person under that section. New section 10CB provides an on duty protection services officer at a designated place may without a warrant stop and search a person for the possession of weapons if the person is in a relevant place. **[7]** These are defined as a licensed premises, a public transport station, a public transport vehicle, retail premises, a shopping centre and a sporting or entertainment venue. Searches must be conducted in the least invasive manner and in accordance with Schedule 1. Persons may be detained for so long as is reasonably necessary. These are defined as a licensed premises, a public transport station, a public transport vehicle, retail premises, a shopping centre and a sporting or entertainment venue. This includes an 'adjacent public area' as defined in new section 10C.[7] An electronic metal detection device can be used for searches in accordance with Schedule 1.

It amends an existing delegation provision by the Commissioner in relation to a planned and unplanned designation of an area. **[8] (See PCA)** It makes consequential amendments. It amends section 10 to specify the information required to be given prior to a search and the seizure of weapons. **[9-13]**

Comments under the PCA

Rights and freedoms – Search and seizure without a warrant – (s. 17(a)(i), PCA)

It inserts new section 10CA. [7] A police officer may without warrant, stop and search a person for the possession of weapons if the person is in a relevant place.[8] **[7]** These are defined as a licensed premises, a public transport station, a public transport vehicle, retail premises, a shopping centre and a sporting or entertainment venue. This includes an 'adjacent public area' as defined in new section 10C.[9] **[6]** Similarly new section 10CB provides an on duty protection services officer at a designated

2 See *Control of Weapons Act* 1990, s. 10C.

3 See s. 10D which makes provision for a planned designation of an area. Section 10D(3)(b)(ii) provides a declaration must not exceed 6 months.

4 See s. 10E which makes provision for an unplanned designation of an area. Section 10E(4)(b) provides a declaration must not exceed 24 hours.

5 Section 3 of the *Control of Weapons Act* 1990 provides that 'designated place' has the same meaning as in the *Victoria Police Act* 2013. Section 3 of the *Victoria Police Act* 2013 provides that a 'designated place means (a) a place prescribed by the regulations to be a designated place for the purposes of section 52 or (b) a place or area declared to be a designated place in a notice published under section 3A. A declaration under section 3A provides a 'designated place' for a period not exceeding 12 months. Section 3A(3)(b) provides for the exercise of powers of protective services officers.

6 See *Control of Weapons Act* 1990, Schedule 1. '*electronic metal detection device* means an electronic device that is capable of detecting the presence of metallic objects.' Paragraph (3) provides for an initial electronic device search.

7 See new section 10C.

8 See new section 10CA(1). [6]

9 See new section 10C(b). [6]

place may without a warrant stop and search a person for the possession of weapons if the person is in a relevant place.

An 'adjacent public area' includes places adjacent to:- a public cark park, the entry or exit of premises, a public transport station, retail premises, shopping centres and sporting or entertainment venues. Examples include a community sporting facility, an event venue used for a conference and entertainment, a community sporting facility being used for a football match, a building being used for a conference event, a park being used for a concert, a road being used for a running or motor racing event. An electronic metal detection device can be used for searches in accordance with Schedule 1. Searches must be conducted in the least invasive manner.

Note the Second Reading Speech:-

> This Bill empowers police officers to stop and scan persons for prohibited weapons without a warrant in certain high risk public places, including licensed premises and their adjacent areas, public transport stations and vehicles, shopping centres, retail precincts and sporting or entertainment venues. These changes will enable officers to use handheld metal detection wands to detect and seize weapons quickly, safely and without bureaucratic barriers that currently hinder proactive policing.
>
> The core objective of Jack's Law is simple, to remove dangerous weapons before they are used to harm Victorians. By granting officers the ability to scan without needing to establish a designated area or obtain a specific authorisation, this Bill allows police to act immediately in knife crime hotspots and locations where large gatherings of people are most vulnerable.

The Committee notes the broad search power without a warrant which may be conducted by police and protective service officers in defined relevant places, designated places and adjacent public areas for prohibited or controlled weapons or dangerous articles. The Committee notes that a search must be conducted in accordance with Schedule 1. The Committee refers to the Charter report.

Delegates Legislative power – Sub-delegation of powers – (Section 17(a)(vi), PCA) – Practice Note A(iv) – Additional explanatory material

It amends an existing power of delegation by the Chief Commissioner to the Assistant Commissioner of Police. **[8]** Section 10F is set out:-

> 10F Delegation by Chief Commissioner Despite section 19 of the *Victoria Police Act* 2013, the Chief Commissioner may delegate a power under section 10D or 10E only to a police officer of or above the rank of Assistant Commissioner of Police.

[Section 19 of the *Victoria Police Act* 2013[10] sets out a general delegation power of the Chief Commissioner. Specific powers may be delegated] Section 10D enables the Chief Commissioner to declare a planned designated area. Section 10E enables the Chief Commissioner to declare an unplanned designated area. Existing section 10F provides the Chief Commissioner may delegate to the Assistant Commissioner a power under section 10D or section 10E only to a police officer of or above the rank of Assistant Commissioner of Police. The amendments made by clause **[8]** to section 10F enable the Chief Commissioner to delegate those powers to make declarations of planned and unplanned designated areas only to a police officer of or above the rank of senior sergeant.[11] Section 13 of the *Victoria Police Act* 2013 sets out the rank structure of police officers in descending order of seniority:-

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[10] See section 19 of the *Victoria Police Act* 2013. 19 Delegation by Chief Commissioner. It provides for delegations of to a member or class of members of Victoria Police personnel (other than police recruits) other than specified powers. It provides for the delegations of certain powers to a police officer of or above the rank of inspector to a Victoria Police employee at a level of Grade 6 or higher. For example, the power under section 236 to authorise a media organisation or under section 238 to authorise the giving of a photograph to an authorised media organisation.

[11]

13 Rank structure

The following are the ranks of police officers, in descending order of seniority—

(a) Chief Commissioner;
(b) Deputy Commissioner;
(c) Assistant Commissioner;
(d) commander;
(e) chief superintendent;
(f) superintendent;
(g) chief inspector;
(h) inspector;
(i) senior sergeant;
(j) sergeant;
(k) senior constable;
(l) constable.

The Committee notes the powers to declare planned and unplanned designated areas for the purposes of the *Control of Weapons Act* 1990 are significant powers. Declarations may be made in relation to designated areas for between 24 hours and up to six months, depending whether they are unplanned or planned.

Whilst the Chief Commissioner must be satisfied of various matters prior to making a declaration in relation to a designated area[12] there is no limitation on the size of the area the subject of a declaration. Currently those powers can only be delegated by the Chief Commissioner to a police officer of or above the rank of Assistant Commissioner. The amendments enable the Chief Commissioner to delegate those powers only to a police officer of or above the rank of senior sergeant. In those circumstances, the Committee seeks further information as to the expected use of the provisions.

Charter Issues

Privacy – Children – Warrantless electronic searches

Summary: *The effect of clauses 7 and 8 may be to permit an officer to detain and electronically search a person for weapons without a warrant if the person is in licensed premises, a public transport station or vehicle, retail premises, a shopping centre, a sporting or entertainment venue or an area designated by a senior sergeant. The Committee will write to the member seeking further information.*

Relevant provision

The Committee notes that clause 7, inserting a new section 10CA, provides that 'A police officer may, without a warrant, stop and search a person, and search any thing in the possession of or under the control of the person for weapons' if the person or thing is in licensed premises, a public transport station or vehicle, retail premises, a shopping centre or a sporting or entertainment venue. Each of these locations is defined to include 'an adjacent public area', which is defined to mean an adjacent public car park or 'a public place adjacent to an entry or exit'. New section 10CB provides similarly for protected service officers on duty at a designated place that is one of those places. Officers may detain a person for so long as is reasonably necessary to conduct a search. Existing schedule 1 - which provides for an 'electronic search' (initially), an examination of things and an outer search (if the officer

[12] See *Control of Weapons Act* 1990, s. 10D.

considers the person may be concealing a weapon) and a strip search (if the officer believes on reasonable grounds that it is necessary) – applies.

The Committee also notes that clause 8, amending existing s. 10F, provides that the Chief Commissioner may delegate a power under existing ss. 10D & 10E – which permit the Chief Commissioner to designate certain areas to permit similar powers to those in new sections 10CA and 10CB in those areas – to a police officer 'of or above the rank of senior sergeant'.

The Second Reading Speech remarks:

> This bill empowers police and protective officers to stop and scan persons with a prohibited weapon without a warrant in certain high-risk places like shopping centres, where appropriate… These changes will enable officers to use handheld metal detection wands to detect and seize weapons quickly, safely and without the bureaucratic barriers that currently hinder proactive policing.

The Committee observes that the effect of clauses 7 and 8 may be to permit an officer (including a protected service officer on duty in a designated place) to detain and electronically search a person (or thing) for weapons without a warrant (and conduct further searches) if the person (or thing) is in licensed premises, a public transport station or vehicle, retail premises, a shopping centre, a sporting or entertainment venue (or adjacent car parks or public places) or an area designated (in certain circumstances) by a senior sergeant.

Charter analysis

The Statement of Compatibility remarks:

> These powers may interfere with personal privacy. However, several safeguards ensure that such interference is neither unlawful nor arbitrary:
>
> Least invasive search practicable: Both ss 10CA(3) and 10CB(3) expressly require that officers conduct only the least invasive search practicable in the circumstances.
>
> Limited detention power: Officers may detain a person only for so long as reasonably necessary to conduct the search. (ss 10CA(4), 10CB(4))
>
> Application of Schedule 1: Searches must comply with the safeguards in Schedule 1 of the Principal Act, including requirements relating to dignity, same-sex searchers (where relevant), and explanations.
>
> Notice requirements: Clause 9 requires search notices for searches under ss 10CA and 10CB to inform individuals that they are in a relevant place and that officers may search them for weapons.
>
> Record-keeping and accountability: Clause 5 expands the Chief Commissioner's annual reporting obligations to include the number of searches under ss 10CA and 10CB, the types of weapons located, the number of strip searches, and the number of individuals searched who were subsequently charged.
>
> Given the very serious risks posed by weapon-carrying in crowded public environments, and the Bill's extensive procedural safeguards, the measures strike an appropriate balance between privacy rights and the public interest in preventing violence.
>
> I therefore consider the interferences authorised by the Bill lawful, proportionate and not arbitrary.
>
> …
>
> These powers may be exercised in settings frequented by children, such as shopping centres and public transport.
>
> Schedule 1 safeguards including requirements regarding dignity, explanations appropriate to the person's circumstances, and minimal necessary intrusiveness apply to searches of minors. Officers must conduct searches only in the least invasive manner practicable.
>
> Given the public safety objective and the protective framework governing search conduct, any engagement with section 17 is compatible with the Charter.

The Statement of Compatibility may not expressly discuss clause 8.

The Committee notes that the Statement of Compatibility for the bill that introduced existing ss. 10D and 10E remarked:[13]

> I consider that the bill is incompatible with the charter to the extent that it limits rights under sections 13(a) and 17(2) in providing powers for police to randomly search persons (including children) and vehicles in public places within designated areas, even if the police have not formed a reasonable suspicion that the person or vehicle is carrying a weapon.

The Committee also notes that the Statement of Compatibility for a recent bill that expanded the geographic operation of those sections remarked:[14]

> Having regard to more contemporary case law to that which was available to the Minister in 2009, in my Statement of Compatibility for the Terrorism and Weapons Act I concluded that the designated area scheme is subject to sufficient limits and safeguards to curtail any arbitrary interference with the right to privacy…
>
> I… accept that to the extent that the amendments expand the geographical area of planned designated areas for events to include key transit points that are in the vicinity of the event and that are likely to be used by event attendees and will affect a greater number of people external to the event venue itself (and children are not excluded from the scope of the expansion), the incompatibility with section 17 of the Charter is increased.

Relevant comparisons

The Committee notes that most Australian jurisdictions permit warrantless electronic searches for weapons in various areas.[15]

The Committee observes that, while the current laws in Queensland and Tasmania are similar to clause 7, the remaining laws generally only permit such searches if a declaration is made about a particular area by an officer at or above the rank of

- in New South Wales, Assistant Commissioner, who is satisfied that a weapons offence has been committed in the past 12 months in that area and the use of hand-held scanners is likely to be effective at detecting or deterring such offences, and who has considered the effect of such scanners on lawful activity and whether previous authorisations had identified persons carrying weapons.[16]
- in the Northern Territory, senior sergeant, who is satisfied that a violent or weapons offence has occurred in that area in the past 6 months and the use of hand-held scanners is likely to be effective at detecting or deterring weapons offences, and who suspects on reasonable grounds that a weapons offence is likely to occur in that area in the next 72 hours.[17]
- in South Australia (other than for licensed premises), Commissioner, who is satisfied that the use of hand-held scanners is necessary or appropriate to deter or detect weapons offences and is likely to be effective and not unduly affect lawful activity; and who has considered whether previous searches detected weapons.[18]
- In Western Australia, inspector (and only if ratified within 3 hours by an officer at or above the rank of superintendent) who is satisfied that the declaration is necessary to safeguard the area

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13 B Cameron, Statement of Compatibility for the Summary Offences and Control of Weapons Acts Amendment Bill 2009, Legislative Assembly, Parliament of Victoria, 12 November 2009.

14 A Carbines, Statement of Compatibility for the Justice Legislation Amendment (Police and Other Matters) Bill 2025, Legislative Assembly, Parliament of Victoria, 13 November 2025.

15 *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW), ss. 45F & 45K*; Police Administration Act 1978* (NT), ss. 116KB, 116KD & 116KJ; *Police Powers and Responsibilities Act 2000* (Qld), s. 39BA; *Summary Offences Act 1953* (SA), s. 66ZB; *Police Offences Act 1935* (Tas), s. 15CAA; *Criminal Investigation Act 2006* (WA), ss. 61B & 61C.

16 *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW), ss. 45F & 45G.

17 *Police Administration Act 1978* (NT), s. 116KB.

18 *Summary Offences Act 1953* (SA), ss. 66ZD-66ZH.

and the use of metal detectors is likely to be effective at detecting or deterring a weapons offence.[19]

Conclusion

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

- **laws on warrantless electronic searches in New South Wales, the Northern Territory, South Australia or Western Australia are less restrictive means reasonably available to achieve the purpose of clause 7; and**
- **clause 8 is compatible with the Charter.**

19 *Criminal Investigation Act 2006* (WA), s. 61B.

Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025

Member	Hon Sonya Kilkenny MP	**Introduction Date**	18 November 2025
Portfolio	Attorney-General	**Second Reading Date**	19 November 2025

Summary

The purposes of the Bill are:-

- to amend the *Wrongs Act* 1958 in relation to vicarious liability for child abuse, including historic child abuse; and
- to amend the *Limitation of Actions Act* 1958 in relation to setting aside certain settlements or judgments. Note the Second Reading Speech:-

> In November 2024, the High Court in *Bird v DP* overturned a decision of the Victorian Supreme Court, upheld by the Court of Appeal, that extended vicarious liability to relationships that are 'akin to employment'. In doing so, the High Court held that a Catholic Diocese could not be vicariously liable for the abuse of a child by one of its assistant priests, because he was not an employee. In making this decision, the High Court acknowledged that '[i]nsisting on a threshold requirement of an employment relationship for a finding of vicarious liability, including in cases such as the present, has been described as harsh.' …The *Bird v DP* decision has led to inequitable outcomes for victim-survivors based on an abuser's employment status. To address the impacts of the *Bird v DP* decision, the Bill will:
>
> - amend the *Wrongs Act* 1958 to retrospectively (and prospectively) expand vicarious liability for child abuse beyond employment relationships to include relationships that are 'akin to employment'; and
> - amend the *Limitation of Actions Act* 1958 to enable affected victim-survivors to apply to the court to have their settlement or civil judgment that occurred between 13 November 2024 (the date of the *Bird v DP* decision) and the commencement of this Bill, set aside, so that they may benefit from these reforms.

Background

The common law doctrine of vicarious liability provides that an employer may be liable for the acts of its employees even when the employer is not at fault. In 2024, the majority of the High Court of Australia stated in *Bird v DP* (A pseudonym)[20](*Bird V DP*):-

> 44 The third area of law where the expression vicarious liability has been used, and where its use is apposite, involves cases of secondary liability based on attribution of liability, not attribution of the acts, of a wrongdoer to a defendant. This is vicarious liability in its true or proper sense – liability based on the attribution of the liability of another.[21] As is self-evident, vicarious liability is a form of strict liability, whereby a defendant is held liable for the wrongs of another, despite the defendant being free of fault.[22]
>
> 45. The common law of Australia, as repeatedly stated by this Court,[23] has adhered to the rule that a relationship of employment is a necessary precursor to a finding of vicarious liability. In that context, a

[20] *Bird v DP (a pseudonym)* [2024] HCA 41, at paras [44-[47].

[21] Ibid., fn. 54. *Schokman* (2023) 97 ALJR 551 at 561-562 [51]; 410 ALR 479 at 491. See also *Darling Island Stevedoring* (1957) 97 CLR 36 at 57.

[22] Op cit., fn. 1. fn. 55. *Prince Alfred College* (2016) 258 CLR 134 at 148 [39]. See also Sappideen and Vines (eds), *Fleming's The Law of Torts*, 11th ed (2024) at 493 [17.10].

[23] Op cit., fn. 1. fn. 56. *Schokman* (2023) 97 ALJR 551 at 555-556 [12]-[14], 565 [64] [66]; 410 ALR 479 at 482-483, 495-496. See also *Burnie Port Authority* (1994) 179 CLR 520 at 575; *Scott* (2000) 204 CLR 333 at 380 [139], 436 [301]; *Hollis* (2001) 207 CLR 21 at 36 [32]; *Lepore* (2003) 212 CLR 511 at 535 [40], 580 581 [196]-[197]; *Sweeney* (2006) 226 CLR 161 at 167 [12], 173 [33]; *Prince Alfred College* (2016) 258 CLR 134 at 148 [39]-[40], 149-150 [45], [49]; *CFMMEU* (2022) 275 CLR 165 at 199-200 [82], 239 [191].

> relationship of employment operates within a legal framework, defined by statute[24] and by common law principles which inform the content and construction of a contract of employment.[25]
>
> 46. In Australia, an employer may be liable for the acts of its employees, but there is no vicarious liability, in the sense it is now being discussed, for the acts of those not in a relationship of employment, namely acts of third parties outside of that context. If the act complained of is not that of an employee, then the defendant is not, without more, liable.[26] Most recently, in *CCIG Investments Pty Ltd v Schokman*[27] – decided after the Court of Appeal handed down the decision the subject of this appeal – this Court restated that the "just limits",[28] or "essential requirement",[29] for this form of secondary or attributed liability, sometimes described as a rule of law,[30] are "marked out" by the rule that the employee's wrongful act – for which liability is attributed to the employer – "must be committed in the course or scope of the employment".[31] The relevant inquiry is, therefore, twofold:[32] whether the alleged tortfeasor was an employee of the defendant,[33] and then the separate question whether the relevant act or omission of the alleged employee took place in the course or scope of that employment.[34]
>
> 47 The issue is whether, in undertaking the first step of that inquiry, the Court should now expand the boundaries of vicarious liability beyond a relationship of employment to one that is "akin to employment". Contrary to the decisions of the courts below and the submissions of DP, the answer is no.

Part 2 – Amendment of the *Wrongs Act* 1958 (Wrongs Act)

Clause [2] is the commencement provision. **[2]** The Bill expands the law of vicarious liability in relation to child abuse. Note the Second Reading Speech:-

> The Bill and explanatory materials make clear the very limited nature and scope of the reforms. The new statutory vicarious liability is confined to child abuse, only impacts organisations that exercise care, supervision and authority over children, and only extends the existing law of vicarious liability by expanding it to encompass relationships that are akin to employment. These reforms are required to alleviate the impacts of the Bird v DP decision on victim-survivors of historic child abuse.

Part 2 inserts new Part XIIIA into the Wrongs Act. It provides for statutory vicarious liability in relation to child abuse. **[3]** (This differs from Part XIII inserted into the Wrongs Act in 2017. It provides for a statutory duty of care on organisations in relation to child abuse.) It inserts new sections 93A to 93D. 'Abuse', 'child', 'physical abuse' and 'sexual abuse' have the same meaning as in section 88.[35] An

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24 Op cit., fn. 1. fn. 57. See, eg, *CFMMEU* (2022) 275 CLR 165 at 225 [161].

25 Op cit., fn. 1. fn. 58. *WorkPac Pty Ltd v Rossato* (2021) 271 CLR 456 at 477 [56] [58], 478-479 [62]; *CFMMEU* (2022) 275 CLR 165 at 226 [162], 228 [172].

26 Op cit., fn. 1. fn. 59. See, eg, a non-delegable duty and statutory duties such as s 91 of the *Wrongs Act* 1958 (Vic).

27 Op cit., fn. 1. fn. 60. (2023) 97 ALJR 551 at 555-556 [12]-[14], 565 [64]; 410 ALR 479 at 482-483, 495. See also *Lepore* (2003) 212 CLR 511 at 535 [40], 582 [202], 588 [221], 594 [242]; *Sweeney* (2006) 226 CLR 161 at 167 [12], 171 [23], citing Pollock, *Essays in Jurisprudence and Ethics* (1882) at 126; Prince Alfred College (2016) 258 CLR 134 at 159-160 [80] [81]; *CFMMEU* (2022) 275 CLR 165 at 239 [191].

28 Op cit., fn. 1. fn. 61. *Schokman* (2023) 97 ALJR 551 at 555 [13], 565 [64]; 410 ALR 479 at 482, 495.

29 Op cit., fn. 1. fn. 62. *Schokman* (2023) 97 ALJR 551 at 555 [12]; 410 ALR 479 at 482, citing *Prince Alfred College* (2016) 258 CLR 134 at 148-149 [40]-[41].

30 Op cit., fn. 1. fn. 63. *Schokman* (2023) 97 ALJR 551 at 555 [12]; 410 ALR 479 at 482, citing *Bugge v Brown* (1919) 26 CLR 110 at 117.

31 Op cit., fn. 1. fn. 64. *Schokman* (2023) 97 ALJR 551 at 555 [13], 565 [64]; 410 ALR 479 at 482-483, 495.

32 Op cit., fn. 1. fn. 65. *CFMMEU* (2022) 275 CLR 165 at 239 [191].

33 Op cit., fn. 1. fn. 66. *Sweeney* (2006) 226 CLR 161 at 167 [12]; see also 171 [23]. See, eg, *Hollis* (2001) 207 CLR 21 at 41-46 [46]-[60].

34 Op cit., fn. 1. fn. 67. See, eg, *Deatons* (1949) 79 CLR 370 at 379 382, 383, 386; *Prince Alfred College* (2016) 258 CLR 134 at 149 [41]-[42], 159-160 [80]-[81]; *Schokman* (2023) 97 ALJR 551 at 556-559 [14]-[34]; 410 ALR 479 at 483-487. See also *Colonial Mutual Life* (1931) 46 CLR 41 at 49.

35 See section 88 of the *Wrongs Act* 1958.

'institution' means a 'relevant organisation'[36] within the meaning of section 88 and the State. New section 93D makes provision for an appropriate defendant to sue where the institution is a public sector body within the meaning of the *Public Administration Act* 2004. New section 93C provides an institution is vicariously liable for the abuse of a child by an employee of the institution or an individual akin to an employee of the institution if:-

(a) the apparent performance by the employee or individual akin to an employee of a role in which the institution placed that employee or individual supplies the occasion for the abuse of the child by that employee or individual; and

(b) the employee or individual akin to an employee takes advantage of, or uses, that occasion to abuse the child.

New section 93C sets out the matters to which a court may have regard in determining when an individual is akin to an employee. The court may consider the following:-

(a) whether the individual—

(i) carries out activities as an integral part of the activities carried on by the institution; and

(ii) does so for the benefit of the institution;

(b) the extent of the institution's control over the individual in the carrying out of the individual's activities.

Subclause (2) provides an independent contractor is not an individual akin to an employee of an institution. [See also the legislative note at the end of section 93C in relation to the *Legal Identity of Defendants (Organisational Child Abuse) Act* 2018.][37]

New section 93(4) without limiting any matter sets out non-exhaustive factors which a court may have regard in determining whether the institution placed that employee or an individual akin in a position or role in which that employee or individual has:-

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[36] *Wrongs Act* 1958, s 88.
'relevant organisation' means an entity (other than the State) organised for some end, purpose or work that exercises care, supervision or authority over children, whether as part of its primary functions or activities or otherwise, and is—
(a) capable in law of being sued; or
(b) not capable in law of being sued but nominates an associated legal person under section 92; or
(ba) an NGO within the meaning of the *Legal Identity of Defendants (Organisational Child Abuse) Act* 2018 which is capable of being sued in accordance with that Act; or
(c) the holder of a statutory office within the meaning of the *Public Administration Act* 2004; or
(d) a Department or Administrative Office within the meaning of the *Public Administration Act* 2004; or
(e) a body corporate established for public purposes; or
(f) Victoria Police.

[37] Note the Explanatory memorandum:- 'The legislative note at the end of new section 93C refers to section 4 of the *Legal Identity of Defendants (Organisational Child Abuse) Act* 2018, which provides, amongst other things, that the Act applies to any proceeding for a claim founded on or arising from child abuse, regardless of when the child abuse occurred. It is intended that a claim under new Part XIIIA could be made against an unincorporated organisation by virtue of reliance on the *Legal Identity of Defendants (Organisational Child Abuse) Act* 2018.'
Legal Identity of Defendants (Organisational Child Abuse) Act 2018, 4 Application of Act
(1) This Act applies to any proceeding for a claim founded on or arising from child abuse
(2) This Act applies to an NGO if—
(a) a plaintiff commences or wishes to commence a claim against an NGO founded on or arising from child abuse; and
(b) but for being unincorporated, the NGO would be capable of being sued and found liable for a claim founded on or arising from child abuse; and
(c) the NGO controls one or more associated trusts.
(3) This Act applies to a claim founded on or arising from child abuse whether the child abuse occurred or occurs before, on or after the commencement of this section.

(a) authority, power or control over the child; or

(b) the trust of the child; or

(c) the ability to achieve intimacy with the child.

Part 3 – *Limitation of Actions Act* 1958 (Limitations of Actions Act)

Part 3 amends the Limitation of Actions Act to enable plaintiffs to apply to the court to have their settlement or civil judgment which occurred between 13 November 2024 and the commencement of the Bill set aside. Note that 13 November 2024 was the date on which the High Court of Australia handed down the *Bird v DP* decision. **[5-8] (See PCA)**

Comments under the PCA

Trespasses unduly on rights and freedoms – Retrospectivity – Vicarious liability – Commenced proceedings – (section 17(a)(i), PCA)

Wrongs Act – Retrospective – Civil compensation

The imposition of retrospective criminal laws by the common law are normally considered inconsistent with the rule of law.[38] However, the common law's approach may differ. The High Court expressed its view[39]:-

> Ex post facto laws may be either civil or criminal, but the description is frequently used to refer only to criminal laws, perhaps because the creation of crimes ex post facto is, for good reason, generally considered a great deal more objectionable than retrospective civil legislation …

Part 2 inserts new Part XIIIA into the Wrongs Act. It provides for statutory vicarious liability in relation to child abuse. This provides affected victims with the ability to seek civil compensation through the courts. **[3]** New section 93A(1) provides that nothing in the Part affects Part XIII ie: it does not alter the statutory duty of care of organisations imposed by Part XIII. New section 93A(2) provides nothing in the Part affects the operation of Division 6 of Part X.[40] New section 93A (3) provides:-

> (3) This Part applies to a claim founded on or arising from abuse of a child whether the abuse occurs before, on or after the commencement of this Part.

Its effect is that new Part XIIIA applies both prospectively and retrospectively. The Committee notes it has previous considered statutory vicarious liability for child abuse in differing contexts over a number of years.[41] In 2013, the Parliament's then Family and Community Development Committee reported:[42]-

> Non-government organisations are responsible for creating special relationships of trust between their personnel and individuals in the broader community. Organisations are aware of the vulnerability of

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38 *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws* (ALRC Report 129), 13. Retrospective Laws, A common law principle <https://www.alrc.gov.au/publication/traditional-rights-and-freedoms-encroachments-by-commonwealth-laws-alrc-report-129/13-retrospective-laws/a-common-law-principle-12/>.

39 Ibid., 13.21; *Polyukhovich v Commonwealth* (1991) 172 CLR 501, 642 at 642-3.

40 Division 6 of Part X makes general provision for the interaction between non-delegable duties and vicarious liability.
Wrongs Act 1958. 61 Liability based on non-delegable duty
(1) The extent of liability in tort of a person (the defendant) for breach of a non-delegable duty to ensure that reasonable care is taken by a person in the carrying out of any work or task delegated or otherwise entrusted to the person by the defendant is to be determined as if the defendant were vicariously liable for the negligence of the person in connection with the performance of the work or task.
(2) This section applies to a claim for damages in tort whether or not it is a claim for damages resulting from negligence, despite anything to the contrary in section 44.

41 See *Alert Digest No 6 of 2025*, Wrongs Amendment (Vicarious Liability) Bill 2025, pp. 24-32.

42 Ibid., fn 28. Family and Community Development Committee, *Betrayal of Trust: Inquiry into the Handling of Child Abuse by Religious and other Non-Government Organisations*, Parliament of Victoria, November 2013, pp. xi-xii.

> children in their care and the fact that parents and others rely on the organisation and its personnel to look after the wellbeing of those children. The civil law in Victoria has not yet developed to recognise the liability of non-government organisations for the criminal abuse of children perpetrated by their personnel notwithstanding this development in international jurisdictions. The Committee determined that these organisations should have a clear legal duty to take appropriate measures to minimise the risk of abuse that can arise because of the creation of relationships of trust for which they are responsible. They should be held vicariously liable for the acts of their personnel in the course of relationships they develop with individuals in the broader community. The Committee recommends that the Victorian Government undertake a review of the *Wrongs Act* 1958 (Vic) to identify amendments that would ensure organisations are held accountable for their legal duty to protect children from criminal abuse.

The Committee noted the 2015 Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse:-[43]

> We believe it would be reasonable to impose liability on any residential facility for children, any school or day care facility, any religious organisation or any other facility operated for profit that provides services for children that involve the facility having the care, supervision or control of children for a period of time…
>
> We have come to this conclusion only after careful and detailed consideration of the issues. We have been influenced by the decisions of the courts in which strict liability has been recognised. If the law makes a solicitor liable for the criminal act of his clerk and the dry cleaner liable for the criminal act of his employee, could it be argued that it is not appropriate for institutions to be liable for the criminal abuse of a child when in their care? If the protection of an individual's property is an important priority of the common law, the protection of children should at least have the same priority. In our opinion the community would today expect that the care of children should attract the highest obligation of the law.
>
> There may be some in the community who believe that a change of this nature should be left to the High Court to determine. We do not agree with that view. Given how the law has developed in the United Kingdom and Canada, and given the support for imposing liability that has been expressed by some Australian judges, it seems to us very likely – if not inevitable – that, in the absence of legislative action, the courts will recognise and impose this liability. If the courts do this through the development of the common law, the liability will apply retrospectively to abuse that has already occurred. This is the position in the United Kingdom. In our opinion this would not be appropriate.
>
> If the change is made by statute, the injustices that may arise if the change is left to the common law can be avoided. In particular, the burden that retrospective change would impose on insurers or institutions that will not have insured against this liability can be avoided. If the liability was left to the development of the common law and applied retrospectively, in combination with the removal of limitation periods we recommend, relevant institutions would face potentially large and effectively new liability for abuse that has already occurred, potentially over many previous decades. If it were even possible to obtain insurance for retrospective liability on such a scale, the insurance would be likely to be unaffordable for many institutions. No institution could now improve its practices or take steps to prevent abuse that has already occurred.

The Committee notes the Statement of Compatibility:-

> Section 27 of the Charter protects a person's right not to be subject to criminal laws with retrospective effect. There is no corresponding prohibition on retrospective civil laws.
>
> Under the common law, which operates retrospectively, child abuse vicarious liability claims can be brought whether the abuse occurred 50 years ago or recently, as long as the abuse was perpetrated in the scope or course of employment. The Bill simply expands the relationship capable of attracting vicarious liability beyond employment relationships to include relationships akin to employment. Given the new provisions will operate retrospectively (and prospectively), statutory vicarious liability claims for child abuse can be brought whether the abuse occurred before, on or after commencement of the reforms. The Bill, however, does not relate to criminal laws and therefore section 27 of the Charter is

[43] Op. cit., fn 29. Royal Commission into Institutional Responses to Child Sexual Abuse, Redress and Civil Litigation Report, 2015, pp. 54-55. See also recommendations 91 to 93.

> not engaged. Further, a law does not operate arbitrarily merely because it operates retrospectively. Nevertheless, taking a broad view of Charter rights and acknowledging the general presumption against retrospective laws, I consider that a discussion of the retrospective operation of the Bill is helpful.
>
> Retrospective civil laws can give rise to perceptions of unfairness and injustice by imposing potential liability for conduct that a person may not have been liable for at the time it was engaged in. However, to respond to the *Bird v DP* decision, the Bill must operate retrospectively to benefit affected victim-survivors of historic child abuse.
>
> Affected victim-survivors are those who do not have a viable negligence claim, were abused by someone akin to an employee, and who are unable to bring claims for breach of the organisational duty to prevent child abuse under Part XIII of the *Wrongs Act* 1958. While the organisational duty applies broadly, it only applies to abuse that occurred since 1 July 2017. Some victim-survivors of historic child abuse may not have viable negligence claims, as these claims require proof the organisation had knowledge of the abuse, which can be difficult in historic cases due to the passage of time, the death of key witnesses or loss of records. Expanding the law of vicarious liability in the limited way that the Bill does is required to provide affected victim-survivors with a legal avenue to seek civil compensation through the courts.
>
> The Bill and explanatory materials make clear the very limited nature and scope of the reforms. The new statutory vicarious liability is confined to child abuse, only impacts organisations that exercise care, supervision and authority over children, and only extends the existing law of vicarious liability by expanding it to encompass relationships that are akin to employment. These reforms are required to alleviate the impacts of the *Bird v DP* decision on victim-survivors of historic child abuse.

The first limb[44] of the common law test in relation to vicarious liability must be satisfied but is extended. First there must be in existence an employment relationship which attracts vicarious liability. New section 93C extends this to include relationships which are akin to employment. It sets out the criteria to which a court may have regard when determining whether an individual is akin to an employee. It is a matter for the courts in the particular circumstances of the case to determine whether an individual is akin to an employee. The Committee notes the Second Reading Speech:-

> The Bill will extend Limb 1 of vicarious liability for child abuse beyond employment relationships to include those that are 'akin to employment'. This will ensure that organisations can be held accountable, not just for child abuse by employees, but for abuse by people who in all relevant respects resemble employees. Extending Limb 1 in this way ensures that organisations that do not formally employ their personnel can be held accountable for historic abuse.

Second, the relevant act or omission must have occurred in the scope or course of the role. New section 93C(4) codifies the common law test without limiting any matter to which a court may have regard. Note the Second Reading Speech:-

> The Bill will maintain the existing common law test for Limb 2 of vicarious liability, which requires that the relevant act or omission took place in the course or scope of the role, and gives the court appropriate discretion to further develop the test.

The Explanatory memorandum states:-

> New Part XIIIA is intended to overcome the effects of Bird v DP.

The Committee notes the retrospective operation of the provisions prior to 1 July 2017. The Committee notes the insertion of Part XIIIA into the Wrongs Act enables a plaintiff to seek civil compensation from a defendant through the courts. The Committee notes the Charter report.

Limitations of Actions Act 1958 – Retrospective

The Committee notes by way of background that sections 27QA to 27QF were inserted after section 27A of the Limitation of Actions Act in 2019. Division 5 of Part IIA of that Act makes provision for actions for personal injury resulting from child abuse. The effect of those provisions is that an

[44] Op Cit., fn 1. *Bird v DP (a pseudonym)* at 45 and 46.

application may made to the Supreme Court for a judgement or an order in a previously barred cause of action to be set aside. Section 27QA(2) provides that an action may be brought on a previously settled cause of action. That Division applies to those causes of action given effect by a settlement agreement before 1 July 2018. The Committee reported on the Bill and expressed the view that the provisions were justified.[45] In Division 5 'previous judgement' means 'a judgement or an order in a previously barred cause of action.'

Part 3 amends Division 5 and the definition of 'previous judgment' to include a judgment or order to which that Division applies including a dismissal given or made during the period commencing 13 November 2024 and ending on the date of commencement of *Justice Legislation Amendment (Vicarious Liability for Child Abuse) Act* 2025. It inserts new section 27QA(1A) to provide that an action may be brought on a cause of action, even if that cause of action and the judgment or order (including dismissal) was given or made during the same period. **[5-8]** Note the Statement of Compatibility:-

> The Bill will amend the *Limitation of Actions Act* 1958 to allow affected victim-survivors whose claims were resolved in the period between the *Bird v DP* decision (13 November 2024) and commencement of the Bill, to apply to the court to have a judgment (including dismissal) or settlement set aside and commence another action. The court will be able to set aside previous judgments and settlement agreements, where this is just and reasonable. This could lead to a defendant having to pay a higher sum than it had previously paid under the set-aside settlement or judgment.

The Committee notes its foregoing comments, the retrospective operation of Part 3 and the amendments made to the Limitation of Actions Act.

Charter Issues

Equal protection – Statutory liability for child abuse

Summary: *The effect of clause 3 may be that the State or an entity may be vicariously liable if an individual akin to their employee abuses a person under 18. The Committee will write to the Attorney-General seeking further information.*

Relevant provision

The Committee notes that clause 3, inserting a new section 93C into the *Wrongs Act* 1958, provides that '[a]n institution is vicariously liable for the abuse of a child by… an individual akin to the employee of an institution' in certain circumstances. An 'institution' means 'the State' or a non-state 'entity that is organised for some end, purpose or work that exercises care, supervision or authority over children'. 'child' means 'a person who is under the age of 18 years'.

The Explanatory Memorandum explains:

> In November 2024, the High Court of Australia in *Bird v DP*… overturned a decision of the Victorian Supreme Court, upheld by the Court of Appeal, that extended vicarious liability to relationships that are "akin to employment"…
>
> The High Court noted: "Insisting on a threshold requirement of an employment relationship for a finding of vicarious liability, including in cases such as the present, has been described as harsh." And further: "Reformulation of the law of vicarious liability is properly the province of the legislature".
>
> The decision has had a significant impact on victim-survivors of historic child abuse who have—or wish to make—vicarious liability claims against organisations that do not formally employ their personnel, but which nevertheless have relationships with those personnel that resemble employment.
>
> New Part XIIIA is intended to overcome the effects of *Bird v DP*.

[45] *Alert Digest No 10 of 2019*, Children Legislation Amendment Bill 2019, p. 5.

The Committee observes that the effect of clause 3 may be that the State or an entity (that exercises care, supervision or authority over children) is vicariously liable if an individual who is akin to their employee abuses a person under 18 (in certain circumstances.)

Charter analysis

The Statement of Compatibility remarks:

> The Bill only expands the law of vicarious liability to the extent necessary to address the direct impacts of the Bird v DP decision on affected victim-survivors of historic child abuse. It will only expand the law of vicarious liability in relation to child abuse, defined as physical and/or sexual abuse of a person who is under the age of 18 years. While this may engage the right to equality and recognition before the law, based on the attribute of age, I consider any limitation reasonable and justified in accordance with section 7(2) of the Charter.
>
> The limited application of the Bill to child abuse recognises the special vulnerability of children, who must be afforded the strongest protections. The Bill focuses on ensuring victim-survivors of child abuse, including historic child abuse, can pursue civil compensation against organisations entrusted with their care.

The Committee notes that recent English cases have considered claims for vicarious liability for non-employees who sexually abused vulnerable adults (including an adult who was vulnerable to rape by a religious official; and teens both over and under 18 sexually abused as part of a pattern of misconduct by a doctor), albeit unsuccessfully to date.[46] The Committee observes that, to the extent that clause 3 permits people to make a vicarious liability claim against the State or an entity in relation to abuse by some non-employees that occurred when that claimant was under 18, but not a similar claim in relation to similar abuse by a similar individual that occurred when the claimant was 18 or over, it may engage the Charter's right to 'equal and effective protection of the law without discrimination' on the basis of age.[47]

The Committee also notes that, although new section 93A expressly provides that the Bill does not affect existing Part XIII (which provides for 'organisational liability for child abuse') or the extent of liability for breach of a non-delegable duty, it may not expressly address whether or not the common law on vicarious liability may be limited by clause 3, for example whether or not clause 3 prevents a future court from overruling *Bird v DP* as it relates to claims of abuse alleged to have occurred when the claimant was an adult.

Relevant comparisons

The Committee notes that existing s. 91 of the *Wrongs Act* 1958, which imposes a duty of care on certain organisations to take care to prevent abuse by an individual 'associated with' the organisation, is (like clause 3) limited to 'abuse of a child'. The Committee observes that, while existing Part XIII (like clause 3), does not expressly address the impact of that part on the common law, other provisions in the *Wrongs Act* 1958 expressly provide that Parts IB (on intoxication), X (on negligence), XI (on mental harm) and XII (on the liability of public authorities) are 'not intended to affect the common law' except to the extent provided in those Parts.[48]

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46 See *Barclays Bank plc v Various Claimants* [2020] UKSC 13; *Trustees of the Barry Congregation of Jehovah's Witnesses v BXB* [2023] UKSC 15. The Committee notes that the first claim failed because the alleged abuser was an independent contractor and the second claim failed because the alleged rape did not occur on an occasion when the alleged rapist was performing a role in which he was placed by the religious organisation.

47 Charter s. 8(3).

48 *Wrongs Act 1958*, ss. 14F, 47, 71 & 82.

The Committee also notes most other Australian jurisdictions have extended vicarious liability for child abuse in some circumstances.[49] The Committee observes that each jurisdiction expressly provides that those extensions are not intended to affect the common law.[50]

Conclusion

The Committee will write to the Attorney-General seeking further information as to whether or not expressly providing that new section 93G is not intended to limit the common law is a less restrictive means reasonably available to achieve the purpose of clause 3.

Property – Retrospective penalties – Retrospective vicarious liability

Summary: *The effect of clause 3 may be that some individuals who are free of fault may be liable for certain abuse by certain non-employees that occurred before clause 3 commenced. The Committee will write to the Attorney-General seeking further information.*

Relevant provision

The Committee notes that clause 3 introduces a new sub-section 93A(3), which provides:

> This Part applies to a claim founded on or arising from abuse of a child whether the abuse occurs before, on or after the commencement of this Part.

Part XIII includes new sub-section 93G(1), which provides that '[a]n institution is vicariously liable for the abuse of a child by an employee of the institution or an individual akin to the employee of an institution' in certain circumstances. An 'institution' means 'the State' or a non-state 'entity that is organised for some end, purpose or work that exercises care, supervision or authority over children'. The *Legal Identity of Defendants (Organisational Child Abuse) Act* 2018 provides that a child abuse action may proceed against an 'entity' nominated by an organisation or a trustee of an associated trust of an organisation in certain circumstances. An 'entity' includes 'an individual'.[51] 'abuse' means 'physical abuse' (other than lawful or justified actions), 'sexual assault' and 'other sexual misconduct'.

The Second Reading Speech remarks:

> Vicarious liability is a form of strict liability whereby a defendant organisation can be held liable for the wrongful acts or omissions of another person, even if the defendant is free from fault. This stands in contrast to the statutory duty of care on organisations to prevent child abuse under Part XIII of the *Wrongs Act* 1958, where liability is fault-based…
>
> The *Bird v DP* decision has impacted a group of historic child abuse victim-survivors: those who do not have viable negligence claims (due, for example, to the passage of time, the loss of records and deaths of key witnesses); and those who were abused by a non-employee, who nevertheless resembled an employee. Claims on foot at the time of the decision have been significantly weakened or rendered unviable, with some plaintiffs at risk of costs orders against them. These victim-survivors now find themselves without any possible avenues for civil litigation…
>
> The Bill will enable statutory vicarious liability claims for child abuse to be brought whether the abuse occurred before, on or after the commencement of the Bill. This retrospective operation is consistent with how the common law of vicarious liability operates. Retrospective reforms are necessary to remove

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49 *Civil Law (Wrongs) Act 2002* (ACT), s. 114BE(1); *Civil Liability Act 2002* (NSW), s. 6H(1); *Personal Injuries (Liability and Damages) Act 2003* (NT), s. 17G(1); *Civil Liability Act 1936* (SA), s. 50G(1); *Civil Liability Act 2002* (Tas), s. 49J(1). See also Civil Liability (Child Sexual Abuse Actions) Bill 2025 (WA), cl. 4 (new sub-section 15EA(3)).

50 *Civil Law (Wrongs) Act 2002* (ACT), s. 114BE(3); *Civil Liability Act 2002* (NSW), s. 6H(3); *Personal Injuries (Liability and Damages) Act 2003* (NT), s. 17G(3); *Civil Liability Act 1936* (SA), s. 50G(3); *Civil Liability Act 2002* (Tas), s. 49J(2). See also Civil Liability (Child Sexual Abuse Actions) Bill 2025 (WA), cl. 4 (new sub-section 15EA(4)).

51 *Interpretation of Legislation Act 1984*, s. 38 ('entity', 'person').

> the barrier to civil litigation currently faced by victim-survivors of historic child abuse who have been impacted by the *Bird v DP* decision.

The Committee observes that the effect of clause 3 may be that some individuals who are free of fault may be liable for certain abuse by certain non-employees that occurred before clause 3 commenced.

Charter analysis

The Statement of Compatibility remarks:

> Under the common law, which operates retrospectively, child abuse vicarious liability claims can be brought whether the abuse occurred 50 years ago or recently, as long as the abuse was perpetrated in the scope or course of employment. The Bill simply expands the relationship capable of attracting vicarious liability beyond employment relationships to include relationships akin to employment. Given the new provisions will operate retrospectively (and prospectively), statutory vicarious liability claims for child abuse can be brought whether the abuse occurred before, on or after commencement of the reforms.
>
> The Bill, however, does not relate to criminal laws and therefore section 27 of the Charter is not engaged. Further, a law does not operate arbitrarily merely because it operates retrospectively. Nevertheless, taking a broad view of Charter rights and acknowledging the general presumption against retrospective laws, I consider that a discussion of the retrospective operation of the Bill is helpful.
>
> Retrospective civil laws can give rise to perceptions of unfairness and injustice by imposing potential liability for conduct that a person may not have been liable for at the time it was engaged in. However, to respond to the *Bird v DP* decision, the Bill must operate retrospectively to benefit affected victim-survivors of historic child abuse.
>
> Affected victim-survivors are those who do not have a viable negligence claim, were abused by someone akin to an employee, and who are unable to bring claims for breach of the organisational duty to prevent child abuse under Part XIII of the *Wrongs Act* 1958… . Some victim-survivors of historic child abuse may not have viable negligence claims, as these claims require proof the organisation had knowledge of the abuse, which can be difficult in historic cases due to the passage of time, the death of key witnesses or loss of records. Expanding the law of vicarious liability in the limited way that the Bill does is required to provide affected victim-survivors with a legal avenue to seek civil compensation through the courts.
>
> The Bill and explanatory materials make clear the very limited nature and scope of the reforms. The new statutory vicarious liability is confined to child abuse, only impacts organisations that exercise care, supervision and authority over children, and only extends the existing law of vicarious liability by expanding it to encompass relationships that are akin to employment. These reforms are required to alleviate the impacts of the Bird v DP decision on victim-survivors of historic child abuse.

The Committee notes that the United States Supreme Court has held that clear statutory language is required before laws that retrospectively impose civil liability will be interpreted as permitting awards of punitive (rather than compensatory) damages.[52] The Committee observes that, to the extent that clause 3 retrospectively permits exemplary or aggravated damages to be awarded for criminal offences (e.g. 'sexual assault'), it may engage the Charter's right against imposing a penalty on 'any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed'.[53]

The Statement of Compatibility may not discuss the compatibility of clause 3 with an individual's Charter right 'to 'not be deprived of that person's property other than in accordance with law.'[54] The Committee notes that the United Kingdom Supreme Court has characterised a statute that retrospectively reversed an earlier decision of that court that had excluded liability for certain forms

[52] *Landgraf v USI Film Products*, 511 U. S. 244 (1994); *Opati v Republic of Sudan*, 590 US 418 (2020).

[53] Charter s. 27(2).

[54] Charter s. 20.

of harm arising from dust diseases as engaging potential respondents' property rights under the European Convention on Human Rights.[55] The Committee observes that the justices of that Court variously ruled that the statute was compatible with those property rights as the retrospective burden was limited to parties otherwise proved to be negligent and to insurers who were aware of the risk that they may be liable for such harm when they agreed to insure, and the law did not reverse an established, unambiguous rule that could support a legitimate expectation of permanent immunity from such claims.[56]

Relevant comparisons

The Committee notes that existing s. 93 of the *Wrongs Act* 1958 provides that existing s. 91's statutory duty of care on certain organisations to prevent child abuse by individuals associated with that organisation applies 'to abuse of a child that occurs on or after the day on which' that provision was enacted. The Committee observes that existing 91(3) provides that organisations will not be liable if they prove on the balance of probabilities that they took reasonable precautions to prevent that abuse.

The Committee also notes most other Australian jurisdictions have extended the common law on vicarious liability for abuse in some circumstances.[57] The Committee observes that only the Australian Capital Territory laws currently apply retrospectively.[58] The Committee also observes that New South Wales and the Northern Territory bar awards of exemplary, punitive or aggravated damages in all personal injury claims for negligence.[59]

Conclusion

The Committee will write to the Attorney-General seeking further information as to whether or not:

- **clause 3 permits a court to order exemplary or aggravated damages with respect to vicarious liability for criminal abuse by a non-employee that occurred before clause 3 commenced;**
- **new sub-section 93A(3) is compatible with the Charter right of individuals who may be liable to pay damages without proof of fault for abuse by non-employees that occurred before clause 3 commenced to 'not be deprived of… property other than in accordance with law'; and**
- **including a 'reasonable precautions' defence similar to existing s. 91(3) of the Wrongs Act 1958 in new section 93G would be a less restrictive means reasonably available to achieve the purpose of clause 3.**

Property – Fair hearing – Previously settled actions – Court may set aside certain settlements or judgments

Summary: *The effect of clause 4 may be that actions can be brought on previously settled actions and a court can set aside settlements or judgments finalised between 13 November 2024 and the*

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[55] *AXA General Insurance Ltd & Ors v Lord Advocate & Ors (Scotland)* [2011] UKSC 46, [28], [73], [86]-[90], [115], [177], concerning *Rothwell v Chemical & Insulating Co Ltd* [2007] UKHL 39, the *Damages (Asbestos-related Conditions) (Scotland) Act 2009* (Scotland) and Article 1 of Protocol 1 of the European Convention on Human Rights.

[56] *AXA General Insurance Ltd & Ors v Lord Advocate & Ors (Scotland)* [2011] UKSC 46, [37]-[41], [81]-[82], [95]-[96], [128]-[134], [177].

[57] *Civil Law (Wrongs) Act 2002* (ACT), s. 114BE(1); *Civil Liability Act 2002* (NSW), s. 6H(1); *Personal Injuries (Liability and Damages) Act 2003* (NT), s. 17G(1); *Civil Liability Act 1936* (SA), s. 50G(1); *Civil Liability Act 2002* (Tas), s. 49J(1). See also Civil Liability (Child Sexual Abuse Actions) Bill 2025 (WA), cl. 4 (new sub-section 15EA(3)).

[58] *Civil Law (Wrongs) Act 2002* (ACT), s. 114BA. See also Civil Liability (Child Sexual Abuse Actions) Bill 2025 (WA), cl. 4 (new para 15EA(6)(a)).

[59] *Civil Liability Act 2002* (NSW), s. 21; *Personal Injuries (Liabilities and Damages) Act 2003* (NT), s. 19. Compare *Civil Liability Act 2003* (Qld), s. 52(2).

commencement of clause 4. The Committee will write to the Attorney-General seeking further information.

Relevant provision

The Committee notes that clause 4, amending existing s. 270A of the *Limitation of Actions Act* 1958, extends existing ss. 27QA, 27QC and 27OE to causes of action that were settled or where a judgment or order was made between 13 November 2024 and the commencement of clause 4. Existing sub-s. 27QA(2) provides that 'An action may be brought on a previously settled cause of action' (other than under the National Redress Scheme.) Existing ss. 27QC(1) and 27QE(1) permit a court to set aside a previous judgment or settlement if it is satisfied that it is just and reasonable to do so.

The Second Reading Speech remarks:

> The Bill will amend the *Limitation of Actions Act* 1958 to allow affected victim-survivors whose vicarious liability claims were resolved in the period between 13 November 2024 (the date of the High Court's decision in *Bird v DP*) and the commencement of these reforms, to apply to the court to have a judgment or settlement set aside and commence another action. Courts can set aside judgments or settlements where it considers this just and reasonable.
>
> This reform ensures that victim-survivors whose claims were significantly weakened or rendered unviable following the High Court's *Bird v DP* decision, can benefit from the reforms.

The Committee observes that the effect of clause 4 may be that actions can be brought on previously settled actions and a court can set aside settlements or judgments (if just and reasonable to do so) finalised between 13 November 2024 and the commencement of clause 4.

Charter analysis

The Statement of Compatibility remarks:

> The Bill will amend the *Limitation of Actions Act* 1958 to allow affected victim-survivors whose claims were resolved in the period between the *Bird v DP* decision (13 November 2024) and commencement of the Bill, to apply to the court to have a judgment (including dismissal) or settlement set aside and commence another action. The court will be able to set aside previous judgments and settlement agreements, where this is just and reasonable. This could lead to a defendant having to pay a higher sum than it had previously paid under the set-aside settlement or judgment.
>
> I am satisfied that any limitation on property rights under the Charter is reasonable and justified in accordance with section 7(2) of the Charter. Enabling victim-survivors to apply to the court to set aside affected judgments or settlements, ensures that victim-survivors impacted by *Bird v DP* can benefit from the reforms and are not left without meaningful legal redress for the abuse they suffered as children.
>
> Any deprivation of property because of this Bill will be in accordance with the law. Any interference with a defendant's property rights would be limited to circumstances in which a court has determined, in the exercise of its discretion, are 'just and reasonable'.
>
> … In deciding whether to make an order to set aside a settlement or previous judgment, a court will continue to exercise its discretion, based on the evidence before it and the application of the law to those facts, and continue to adhere to prescribed rules and procedures. These reforms will not compromise a party's right to a fair hearing.

The Statement of Compatibility does not address clause 4's extension of existing sub-s. 27QA(2) of the *Limitation of Actions Act* 1958. The Committee notes that clause 4 may permit an action to be brought on a previously settled cause of action that was settled between 13 November 2024 and the commencement of clause 4 without a court order setting aside the settlement or a finding that doing so was just and reasonable. The Committee observes that, to the extent that the settlement agreement barred further actions being brought against an individual party on the settled cause of action, clause

4 may engage that individual's Charter right not to be deprived of property other than in accordance with law.

The Committee also notes that clause 4 may not be expressly limited to claims 'impacted by *DP v Bird*'. The Explanatory Memorandum explains:

> A court has discretion to determine, based on the application of broad principles and consideration of relevant factors, whether setting aside the settlement agreement of the previously settled cause of action is just and reasonable in the particular circumstances. It is intended, however, that an integral factor would be that the settlement was affected by *Bird v DP*. For example, it would likely not be just and reasonable to set aside a settlement agreement of a previously settled cause of action during the relevant period where the claim was in negligence, since Bird v DP only affected matters that relied solely or predominantly on a vicarious liability claim.

Relevant comparisons

The Committee notes that a similar provision to sub-clause 4(a) in the Australian Capital Territory is expressly limited to a claim that 'involved child abuse by a person who would have been an employee of an organisation if' provisions similar to clause 3 'had been in force when the agreement was made.'[60]

Conclusion

The Committee will write to the Attorney-General seeking further information as to whether or not:

- **clause 4, when read with existing sub-s. 27QA(2), is compatible with the Charter right of an individual party to a settlement agreement that prohibits further claims on a settled action to not be deprived of property other than in accordance with law.**
- **limiting clause 4 to actions involving abuse by a non-employee who was akin to an employee within the meaning of clause 3 is a less restrictive means reasonably available to achieve the purpose of clause 4.**

[60] See also Civil Liability Amendment (Child Sexual Abuse Actions) Bill 2025 (WA), cl. 5 (new subsection 23(1) ('previously finalised cause of action', para (b)) and new sub-section 24(4).)

Justice Legislation Further Amendment (Miscellaneous) Bill 2025

Member	Hon Sonya Kilkenny MP	**Introduction Date**	18 November 2025
Portfolio	Attorney-General	**Second Reading Date**	19 November 2025

Summary

The Bill makes miscellaneous amendments to a number of Acts. The Bill:-

- Amends the *Open Courts Act* 2013 to make further provision for the revocation or variation of pre-existing orders;
- Amends the *Coroners Act* 2008 to streamline investigation procedures;
- Amends the *Fines Reform Act* 2014, the *Infringements Act* 2006, the *Road Safety Act* 1986 and the *Marine Safety Act* 2010 to make further provision for the service of electronic documents;
- Amends the *Guardianship and Administration Act* 2019 in relation to acting appointments and delegations;
- Amends the *Crimes Act* 1958 to extend the offence of bestiality and create new offences in relation to animal abuse material;
- Amends the *County Court Act* 1958 and the *Sentencing Act* 1991 to provide for the on-going operation of the Drug Court Division of the County Court; and
- Amends the *Road Safety Act* 1986 in relation to procedural matters in the Magistrates' Court.

Part 2 – *Open Courts Act* 2013 (Open Courts Act) – *Coroners Act* 2008 (Coroners Act) – *Births, Deaths and Marriages Registration Act* 1996 (BDM Act) – *Marine Safety Act* 2010 (Marine Safety Act)

It inserts new Division 2 in Part 7 which makes provision for pre-existing orders. **[4] (See PCA)** It amends the Coroners Act to enable the Victorian Institute of Forensic Medicine (VIFM) pathologists to register natural cause deaths with Births, Death and Marriages (BDM) at the direction of the coroner. It inserts new sections 17A, 17B and 17C which provide the coroner with the discretion to discontinue investigations into certain reportable natural cause deaths and a mechanism for reopening discontinued investigations where appropriate.

Notification must be made to BDM. **[12]** The coroner may on its own motion or on the application of a person set aside findings to enable the court to act on new information which requires further investigation. **[13]** It inserts new section 84A to provide for an appeal against a refusal to re-open a discontinued investigation. **[14]** It makes amendments to the BDM Act to update notification requirements. It clarifies a doctor's existing notification obligations. **[17-20]**

Part 4 – Fines, warrants, infringement notices and electronic service – *Fines Reform Act* 2014 (Fines Reform Act) – *Infringements Act* 2006 (Infringements Act) – *Road Safety Act* 1986 (RS Act)

It inserts a new definition of 'nomination statement'[61] in the Fines Reform Act, Infringements Act and RS Act. **[21,34,44**[62]**,46]** It makes further provision for the existing delegation power of the Director. It

[61] Note the Explanatory memorandum:- 'Service of an infringement notice by email or other electronic communication is permitted under that Act.' [This refers to the *Infringements Act* 2006]'

[62] Note the Explanatory memorandum:- 'Clause 44 inserts a definition of nomination statement in section 84BB of the *Road Safety Act* 1986 for the purposes of Part 6AA of that Act, which provides for an operator onus system for certain offences involving motor vehicles. A nomination statement is defined to mean—

extends the existing delegation power to the Director's functions, powers or duties under a roads or tolling Act or any other Act.[63] **[22]** A notice of demand or an infringement notice may be sent to the person's address in a nomination statement given by the person in the preceding 12 months. **[31,35]** It sets out the matters in respect of which a Magistrates' Court must be satisfied before it may order that a person is not a declared director. **[24]** New section 106(1A) clarifies the operation of section 106(1)(d) in relation to the issue of enforcement warrants.[64] **[27]**

It further provides for the service of documents. It inserts new section 181A. It provides despite anything to the contrary in section 179(9), a document that is served on a person by email or other electronic communication is deemed to be served at the time the email or other electronic communication is taken to have been received even if the sender is notified that the email or other electronic communication has not been received. Or if the time the email or electronic communication is sent is after 4.00 pm, it is taken to have been received on the next business day. **[30,32]** Note the Statement of Compatibility:-

> The amendment relating to the electronic service of infringement notices is minor and technical only. The change inserts a Note in the *Infringements Act* 2006 to clearly state that infringement notices may be served electronically under the existing electronic service provisions of that Act. Those provisions support the electronic service of fines-related notices (including infringement notices) where the fine recipient consents to receiving the notice electronically, is of or over the age of 16, and has provided an electronic address for service.
>
> These safeguards apply to any fines-related notices sent electronically, and notices will only be deemed to have been received if returned undelivered in these circumstances. Both the Infringements Act and the *Fines Reform Act* 2014 already deem notices sent by post to have been received even if they are returned undelivered, in certain circumstances. For notices served under the Fines Reform Act, these circumstances include where the notice has been sent to an address supplied by the intended recipient themselves in a fines-related application. The proposed change will apply the same rule to notices sent electronically to an address supplied by the intended recipient themselves. The Department of Justice and Community Safety will continue to develop appropriate policies to guide the use of electronic service.
>
> The amendments relating to electronic enforcement warrants do not impact adversely on a fine defaulter's ability to obtain relevant information about the warrant. Section 14 of the *Sheriff Act* 2009 provides for the requirements for executing electronic warrants, including a requirement that the person the subject of the warrant be provided with specified details about the warrant and a copy of the warrant powers summary. The legislative provisions relating to the issue and execution of electronic enforcement warrants are well established, and the changes simply address an anomaly that appears to require even electronic warrants to be issued in the form prescribed under regulation 23 of the Fines Reform Regulations 2017.

- an illegal user statement, a known user statement, a sold vehicle statement, an unknown user statement, a tolling nomination statement or a nomination rejection statement; or
- an illegal user statement, a known user statement, a sold vessel statement, an unknown user statement or a nomination rejection statement within the meaning of Part 4.7 of the *Marine Safety Act* 2010.'

63 Note the Explanatory memorandum:- 'Subclause (2) inserts new subsection (4) into section 8 to define the term "roads and tolling Act" to mean any of the following Acts— the *Road Safety Act* 1986; the *Eastlink Project Act* 2004; the *Melbourne City Link Act* 1995; the *West Gate Tunnel (Truck Bans and Traffic Management) Act* 2019; the North East *Link Act* 2020.' The amendment ensures that the functions, powers or duties of the Director, Fines Victoria under the *Road Safety Act* 1986, tolling legislation and any other Act can be delegated in accordance with section 8 of the *Fines Reform Act* 2014.'

64 Note the Explanatory memorandum:- 'Section 106(1)(a) provides that one of the matters in respect of which the Director, Fines Victoria may be satisfied for the purposes of applying for the issue of an enforcement warrant is that a notice of final demand was served and the fine defaulter has failed to comply with that notice. New section 106(1A) clarifies that subsection (1)(d) applies even where a notice of final demand in respect of an unpaid fine has been served but not yet expired. The amendment clarifies that section 106(1)(d) operates as a separate, stand alone basis for an application for the issue of an enforcement warrant. This means that the Director, Fines Victoria may apply for an enforcement warrant for a fine defaulter who is already the subject of another unsatisfied enforcement warrant that is in force regardless of whether a notice of final demand has been served and not complied with under section 106(1)(a).'

It is an offence to include the provision of false information in any written statement in an application to the Director, Fines Victoria for an extension of time to deal with an infringement notice in respect of a traffic infringement or tolling offence. The penalty is 10 penalty units. **[33]** A withdrawal notice may be issued in respect of more than one infringement notice. **[36]** Service of infringement notices may be addressed to an address provided in a nomination statement given by the person in the preceding 12 months or sent by email. **[40]** It makes further provision for documents served and returned undelivered if sent to an authorised address or an address for the person provided in a nomination statement given by the person in the preceding 12 months. **[41,42]** Note the Explanatory memorandum:-

> New section 163A(1) provides that subject to section 163A(2), a document other than an infringement notice served by post and returned undelivered is deemed to be served 7 days after the date of the document despite being returned undelivered if the notice is sent to an "authorised address", or an address for the person provided in a nomination statement given by the person in the preceding 12 months. New section 163A(2), which provides that despite anything to the contrary in section 12(2), an infringement notice served by post and returned undelivered is deemed to be served 7 days after the date of the notice despite being returned undelivered if the notice is sent to an authorised address, or an address for the person provided in a nomination statement given by the person in the preceding 12 months.
>
> The effect of the amendments is to extend the application of the existing deemed served if returned undelivered provisions to addresses provided in a nomination statement in the preceding 12 months. A definition of a nomination statement is inserted in section 3(1) of the *Infringements Act* 2006 by clause 34 of the Bill.

It amends the RS Act. It removes the requirement to provide an affidavit or statutory declaration as part of an application for an extension of time of 28 days to deal with a traffic infringement notice. It requires that applications be accompanied by an affidavit or a statutory declaration setting out in writing the grounds on which the extension is sought. **[43]** Notices may be served under the Marine Safety Act by post to an address for the person provided in a nomination statement given by them in the preceding 12 months. (This is consistent with services of notices under the RS Act.) **[47]**

Eastlink Project Act 2004 (Eastlink Project Act) – *Melbourne City Link Act* 1995 (Melbourne City Link Act) – *North East Link Act* 2020 (North East Link Act) – *West Gate Tunnel (Truck Bans and Traffic Management) Act* 2019 (West Gate Tunnel Truck Bans Act) – *Public Health and Wellbeing Act* 2008 (PHW Act)

It removes the requirement for applicants for an extension of time of 28 days to deal with an infringement notice for driving an unregistered vehicle in a toll zone to provide a supporting sworn or affirmed statement in writing, or a statutory declaration in support of their application. An application must be in writing, provide an address for service and state the grounds on which the extension of time is sought. **[48]** The same amendment is made to the Melbourne City Link Act, North East Link Act and West Gate Tunnel Truck Bans Act. **[49,50,51]**

Online platform amendments

It makes changes to the Fines Reform Act to facilitate the service of certain fines-related documents through an online portal.[65] If the Director, Fines Victoria (Director of Fines) approves a website as the

[65] Note the Explanatory memorandum:- 'New section 179A(1) enables the Director, Fines Victoria to approve a website as the online platform for the purposes of the following provisions— new section 179A of the *Fines Reform Act* 2014; section 162A of the *Infringements Act* 2006; sections 67(11) and 84BE(8A) of the *Road Safety Act* 1986; section 207(1) of the *EastLink Project Act* 2004; section 77(7) of the *Melbourne City Link Act* 1995; section 79(8) of the *North East Link Act* 2020; section 41(8) of the *West Gate Tunnel (Truck Bans and Traffic Management) Act* 2019; section 165DE of the *Public Health and Wellbeing Act* 2008.'
[Note section 165DE of the *Public Health and Wellbeing Act* 2008 provides the Director must give notice if the applicant is not an eligible person.]

online platform, notice of the approval and related website details must be published in the Government Gazette. New subclause 179A(5) expressly excludes a fine defaulter, an infringement offender and any other person against whom enforcement action under that Act or the Infringements Act is sought. **[52,53,54,55]** Note the Statement of Compatibility:-

> In relation to the amendments to facilitate the service of fines-related notices through an online portal, this portal is only intended for use by enforcement agencies and other third-parties who agree to this form of information exchange – the portal will not be used to send notices to fine recipients themselves.

It inserts new section 162A into the Infringements Act which provide for the service of documents via an online platform. **[55]** Note that new section 162A(3) provides that a document may by served by an enforcement agency on a person who has made an application for internal review[66] by lodging notification online. Subclause (4) provides service may only be affected in that manner if the person who made an application for internal review is a person acting on behalf of a person who has been served with an infringement notice. **[55]** A Freeway Corporation or an authorised person may notify an enforcement agency of non-payment of toll. **[58,59,60,61]**

Part 8A of the PHW Act provides generally for the protection of life and public health during pandemics. Part 8B makes provision for a concessional infringement scheme. An application may be made by a natural person who has been issued with an infringement notice for determination under section 165CZ. The Director of Fines must determine an applicant is an eligible person[67] and if satisfied of various matters including prescribed infringement offences must reduce the amount of the fine. Notifications on the online portal may only be made to a person who is acting on behalf of a person who has been issued with an infringement notice in respect of an eligible offence. **[62]**

Part 5 – *Guardianship and Administration Act* 2019 (Guardianship Act) – Part 6 – Bestiality and animal abuse material – *Crimes Act* 1958 (Crimes Act) – *Confiscation Act* 1977 (Confiscation Act) – Part 7 – Drug Court Division

It amends the existing power of the Governor in Council to appoint an Acting Public Advocate on the recommendation of the Minister during the temporary absence or the suspension of the Public Advocate and any period when the office of the Public Advocate is vacant. It amends the existing power of the Minister to appoint a person as Acting Public Advocate if the person has been previously appointed Acting Public Advocate, has taken an oath or affirmation and the appointment does not exceed a period of 12 months. **[63]** It amends the existing delegation in section 19 of the Guardianship Act. **[64] (See PCA)**

It expands the offence of bestiality to include sexual touching involving animals.[68] **[65]** It introduces new offences in the Crimes Act relating to animals. They apply in respect of 'animal abuse material' defined in new '8FAB' sections 55 and 56 inserted by clause. **[68]** The offences apply with respect to

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66 Note section 12 of the *Infringements Act* 2006 makes general provision for service. Part 2 Division 3 sections 21 to 27 make general provision for internal review of various infringement notices. It excludes infringement notices or offences under specified provisions of various Acts. (a) section 67 or 89B of the *Road Safety Act* 1986; (b) section 87A of the *Melbourne City Link Act* 1995; ***** (d) section 61B of the *Marine (Drug, Alcohol and Pollution Control) Act* 1988; (e) section 219A of the *EastLink Project Act* 2004; (f) section 52 of the *West Gate Tunnel (Truck Bans and Traffic Management) Act* 2019; (g) section 90 of the *North East Link Act* 2020.

67 Section 165CY sets out eligible offences. 165CY Eligible offences

(1) For the purposes of this Part, an offence against this Act or the regulations is an eligible offence in respect of a natural person if—
   (a) the offence is prescribed by the regulations; and
   (b) the commission of the offence by the natural person relates to the performance of a function or the exercise of a power in respect of a pandemic disease or a disease of pandemic potential.

(2) For the purposes of this Part, a person is an eligible person in relation to an eligible offence if the person is determined to be an eligible person in relation to the offence under section 165DC(1).

Section 165DC(1) determines whether a person is an 'eligible' person.

68 A person who commits an offence under section 54A(1) is liable to a level 6 imprisonment (5 years maximum).

the intentional possession, production, distribution of animal abuse material.[69] It includes the intentional accessing and viewing of animal abuse material. The test for the requisite intention is an objective reasonable test.[70] Various exceptions and defences are set out in new sections 61A, B and C. A public benefit defence includes conduct or material that is for a genuine agricultural, artistic, educational, legal, medical, scientific or veterinary purpose.

It includes a fair and accurate report defence relevant to journalists and media organisations and the defence of unsolicited possession. The defence must be proven on the balance of probabilities. The Director of Public Prosecutions may apply to a court for an animal abuse material disposal order. **[68]** Sections 77 and 78 of the Confiscation Act apply to the disposal of animal abuse material if a person is convicted of an offence set out in Schedule 1 to that Act. Applications may be made to the Magistrates' Court for a disposal order. **[69]**

Part 7 – Drug Court Division of the County Court – *County Court Act* 1958 (County Court Act) – *Sentencing Act* 1991 (Sentencing Act) – Part 8 – *Road Safety Act* 1986 (Road Safety Act)

Part 7 amends the County Court Act and the Sentencing Act. It allows the County Court Drug and Alcohol Treatment Court (Drug Court) to continue its operation after 26 April 2026. Current legislation which enables its operation is scheduled to sunset on 26 April 2026.[71] **[70,71]** Part 8 amends the Road Safety Act. It makes administrative amendments to improve the operation of its Case Management System. For example, a person who seeks to commence an appeal to the Magistrates' Court against the decision to disqualify them from obtaining a driver licence or learner permit may give written notice by electronic means to the Court. **[75,77]**

Comments under the PCA

Legacy Suppression Orders – Retrospective effect – (section 17(a)(i), PCA)

It inserts new Division 2 in Part 7 which makes provision for pre-existing orders. **[4]** The amendments allow persons to apply to the lower courts or the VCAT to vary or revoke a 'legacy suppression order'. 'Legacy suppression orders' are described as suppression orders made under the common law or repealed provisions in court Acts, prior to the commencement of the *Open Courts Act* 2013 on 1 December 2013.[72] **[4]** It contains savings provisions which provide for the continued operation of

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69 A person who commits an offence under the new provisions is liable to 3 years imprisonment.

70 Note the Explanatory memorandum:- 'New section 56(1)(b) sets out the required intention behind the material, which is framed as an objective, reasonable person test and therefore does not require the prosecution to prove the subjective intentions of the person. The requirement is that a reasonable person would regard the material, in all the circumstances, as being intended to excite or gratify—

- a sexual interest; or
- a sadistic interest in violence or cruelty.

Given the potentially wide range of conduct that may involve harm towards animals but is otherwise permissible in society (for example, fishing conducted in a lawful manner or operation of an abattoir), this intention requirement is intended to ensure that the animal abuse material offences are aligned with the purpose of the Bill and targeted towards sexual or sadistic depictions of animal harm, such as a video of a mouse intentionally being crushed by a person. New section 56(2) provides that it does not matter whether the conduct or animal depicted or described is real so long as it is realistic. The inclusion of realistic materials is intended to ensure coverage of realistic, simulated depictions of animal abuse—for example, images generated by artificial intelligence that are indistinguishable from real ones.'

71 Note the Second Reading Speech:- 'The amendments ensure that offenders pleading guilty to drug and alcohol related offences in the County Court will have access to the therapeutic pathway provided by the Drug Court.'

72 Note the Second Reading Speech:- 'The Bill will implement Recommendation 133 of the Victorian Law Reform Commission's (VLRC's) 2020 Contempt of Court Report (Report) to enable applications to lower courts and the Victorian Civil and Administrative Tribunal (VCAT) to vary or revoke 'legacy suppression orders' made by those courts or tribunal. Suppression orders are an important function of court proceedings that prohibit or restrict the publication or other disclosure of specific information… The Open Courts Act consolidated the general powers of the Supreme Court, County Court, Magistrates' Court, VCAT and the Coroners Court to make suppression orders and closed-court orders, however it does not address legacy suppression orders.'

suppression orders made prior to the commencement of the Open Courts Act. **[5-9]** Note the Second Reading Speech:-

> Legacy suppression orders generally do not have an end date, unlike suppression orders made under the Open Courts Act, which operate for a maximum of 5 years. This means that legacy suppression orders still in force today will operate indefinitely or 'until further order', contrary to the principle of open justice. Open justice is a fundamental legal and democratic principle. Victim-survivors of sexual or family violence offences, the media, and other interested parties should not be unduly silenced, particularly where an adult victim is able and willing to share their lived experience. Upholding the principle of open justice also promotes personal responsibility by holding perpetrators accountable to the community, whilst simultaneously raising public awareness of these significant issues.
>
> The Supreme Court's 2020 decision of *Chairperson of the Royal Commission into the Management of Police Informants v Director of Public Prosecutions Victoria and Others* (2020) 61 VR 490, handed down after the VLRC's Report was tabled, casts doubt on the power of the lower courts and VCAT to review legacy suppression orders. Therefore, currently, only the Supreme Court can review legacy suppression orders under its inherent jurisdiction in the *Constitution Act* 1975. Applying to the Supreme Court is a costly process that can restrict access to justice for applicants, including victim-survivors, and unnecessarily strain the resources of the Supreme Court.
>
> The Bill will allow the lower courts and VCAT to review legacy suppression orders made by that court or tribunal. These are referred to as 'pre-existing orders' in the Bill. Further, where there is an appeal of a substantive proceeding, the appellate court will be able to review the pre-existing order made in the lower court or tribunal and make any order that that court or tribunal could have made under the Open Courts Act. The amendments largely mirror existing suppression order review provisions in the Open Courts Act. This ensures consistent treatment of pre-existing orders and post-commencement suppression orders made under the Act. The Bill will allow a court or VCAT to review a pre-existing order on its own motion or on application by:
>
> - the applicant for the order
> - a party to the proceedings concerned, including the victim or alleged victim in a sexual offence or family violence offence criminal proceeding
> - the Attorney-General, the Attorney-General of another State or Territory or the Commonwealth
> - a news media organisation, or
> - any other person who the court or tribunal considers has a sufficient interest in the review of the order…
>
> The provisions will not interfere with publication prohibitions in other Acts, such as the Children, Youth and *Families Act* 2005, as is the case for suppression orders made under the Open Courts Act.

The Committee notes the operation of the provisions with respect to a court or the VCAT reviewing pre-existing orders of its own motion or on application by specified persons, organisations or those whom the court or the VCAT considers has a sufficient interest in its review.

The Committee notes the above.

Delegation powers – Sub-delegation – (section 17(a)(vi), PCA)

Section 19 of the Guardianship Act contains an existing delegation provision.

> (1) The Public Advocate may, by an instrument of delegation, delegate to a Public Advocate employee any one or more of the following—
>
> (a) a power, duty or function of the Public Advocate under this Act or any other Act, other than this power of delegation;
>
> (b) any or all of the Public Advocate's powers or duties in the Public Advocate's capacity as guardian;

(c) despite section 25 of the *Powers of Attorney Act* 2014, any or all of the Public Advocate's powers or duties in the Public Advocate's capacity as an attorney under an enduring power of attorney within the meaning of that Act.

(2) The Public Advocate may, with VCAT's approval, by instrument of delegation, delegate any or all of the Public Advocate's powers or duties in the Public Advocate's capacity as guardian to an individual (other than to a Public Advocate employee) or organisation specified in the instrument of delegation.

Clause **[64]** inserts a legislative note and example at the foot of section 19(1):-

> Example The Public Advocate delegates to a specified class of Public Advocate employee all the Public Advocate's powers and duties under orders (as in existence from time to time) made by VCAT under Part 3.

Part 3 of the Guardianship makes provision for general orders which may be made to the VCAT. Note the Statement of Compatibility:-

> The Bill amends the *Guardianship and Administration Act* 2019 to enable the Public Advocate to delegate their guardianship powers to a class of employees in a general instrument of delegation rather than creating a new instrument every time VCAT makes a guardianship order or related order. This will significantly reduce the administrative burden involved in delegating these powers and improve service delivery and efficiency of the Office of the Public Advocate.

The Committee notes the above.

Charter Issues

Rights of criminal defendants – Electronic service of fines-related notices – Practice note

Summary: *The effect of clauses 32 and 42 may be that fines-related notices are taken to be served at the time an electronic communication is sent even if the sender is notified that the communication has not been received. The Committee will write to the Attorney-General seeking further information.*

Relevant provision

The Committee notes that clauses 32, inserting a new section 181A into the *Fines Reform Act* 2014, and 42, inserting a new section 163B into the *Infringements Act* 2006, provide that 'Despite anything to the contrary in' new sub-sections 179(9) of the *Fines Reform Act* 2014 and 162(6C) of the *Infringements Act* 2006 'a document that is served on a person by email or other electronic communication is deemed to be served at the time the… electronic communication is taken to have been received' under existing sub-ss. 179(7) & (8) of the *Fines Reform Act* 2014 and sub-ss. 162(6A) & (6B) of the *Infringements Act* 2006 'even if the sender is notified that the… electronic communication has not been received.'

New sub-sections 179(9) of the *Fines Reform Act* 2014 and 162(6C) of the *Infringements Act* 2006 provide that 'Subject to any evidence to the contrary, any document that is served by… electronic communication in accordance with subsection (1) is deemed to be served at the time the … electronic communication is taken to have been received under' existing sub-ss. 179(7) & (8) of the *Fines Reform Act* 2014 and sub-ss. 162(6A) & (6B) of the *Infringements Act* 2006. Existing sub-ss. 179(7) & (8) of the *Fines Reform Act* 2014 and sub-ss. 162(6A) & (6B) of the *Infringements Act* 2006 provide that an… electronic communication 'is taken to have been received at the time the… electronic communication is sent' or 'if… sent after 4.00 p.m. on any day, it is taken to have been received on the next business day.'

The Second Reading Speech remarks:

> The amendments will enhance existing provisions for the electronic service of fines-related notices under the *Infringements Act* 2006 and the *Fines Reform Act* 2014 by providing certainty as to when electronic service of a fines-related notice will be deemed to have occurred, including where the communication is returned undelivered. This will place the electronic service of fines-related notices on an equal footing with notices sent by post. The existing requirements for electronic service, such as a requirement for the recipient to be of or above the age of 16, have provided an electronic address for service, and to have consented to receiving the notice electronically, will continue to apply.

The Committee observes that the effect of clauses 32 and 42 may be that fines-related notices are taken to be served at the time an electronic communication is sent (or, if sent after 4pm, on the next business day) even if the sender is notified that the communication has not been received.

The Committee notes that it may be unclear whether (and, if so, how) a person who is deemed to have been served with a fines-related notice under new sections 181A of the *Fines Reform Act* 2014 and 163B of the *Infringements Act* 2006 can provide 'evidence to the contrary' under new sub-sections 179(9) of the *Fines Reform Act* 2014 and 162(6C) of the *Infringements Act* 2006.

Charter analysis

The Statement of Compatibility remarks:

> These changes do not, in fact, engage the rights in section 25 of the Charter, however, because these rights only apply to persons charged with a criminal offence. Neither an infringement fine, nor a court fine, is a formal criminal charge. For this reason, I consider that these amendments are compatible with the rights contained in section 25(2)(a) and (b) of the Charter.
>
> In any event, I note that the amendments will not result in fine recipients being treated unfairly or adversely impact on their ability to pay or otherwise deal with their fine.
>
> …
>
> Those provisions support the electronic service of fines-related notices (including infringement notices) where the fine recipient consents to receiving the notice electronically, is of or over the age of 16, and has provided an electronic address for service.
>
> These safeguards apply to any fines-related notices sent electronically, and notices will only be deemed to have been received if returned undelivered in these circumstances. Both the Infringements Act and the *Fines Reform Act* 2014 already deem notices sent by post to have been received even if they are returned undelivered, in certain circumstances. For notices served under the Fines Reform Act, these circumstances include where the notice has been sent to an address supplied by the intended recipient themselves in a fines-related application. The proposed change will apply the same rule to notices sent electronically to an address supplied by the intended recipient themselves. The Department of Justice and Community Safety will continue to develop appropriate policies to guide the use of electronic service.

The Committee's *Practice Note* remarks:

> The Statement of Compatibility for provisions that may impose penalties, fines or other burdens on a person who is found to have breached a rule or standard should state whether or not it is a criminal penalty for the purposes of the Charter. The Committee notes that such a penalty may be a criminal penalty for the purposes of the Charter, even if Victorian law characterises it otherwise, e.g. as a civil, disciplinary or regulatory penalty.

The Committee notes that the term 'charged with a criminal offence' in Charter ss. 24 and 25 may not be limited to a 'formal criminal charge'[73] and may include the determination of a penalty or fine for an

[73] See Parliamentary Joint Committee on Human Rights, G*uidance Note 2: Offence provisions, civil penalties and human rights*, December 2014, p. 3, concerning Article 14 of the *International Covenant on Civil and Political Rights*.

offence,[74] which may include its amount, timing and enforcement. The Committee observes that clauses 32 and 42 may engage the Charter's right to have a criminal charge decided after a fair hearing to the extent that they may prevent a person subject to an infringement penalty or a fine from seeking an internal or court review of an infringement offence, payment plan or enforcement decision[75] and may engage such a person's Charter right to be 'informed promptly and detail of the nature of the charge' to the extent that they may result in an offender not being informed of the amount, timing or enforcement of a penalty or fine.

The Committee also notes that existing sub-ss. 179(1) of the *Fines Reform Act* 2014 and 162(1) of the *Infringements Act* 2006 provide that documents required to be given or served under those Acts may be served:

> (ca) by email or other electronic communication if a person to be given or served documents—
>
> (i) is of or above the age of 16 years; and
>
> (ii) has consented orally or in writing to receiving documents by email or other electronic communication; and
>
> (iii) has nominated an electronic address by which they can receive an email or other electronic communication; or
>
> (cb) by sending the document electronically to an address for the person to be served contained in a prescribed electronic address database…

The Committee observes that:

- para (ca) may not expressly require that a person be told of the effect of new sections 179(9) of the *Fines Reform Act* 2014 and 162(6C) of the *Infringements Act* 2006 (in particular that a document may be treated as served when it is sent, even if the sender is notified that the document has not been received).[76]
- para (cb) may not expressly impose requirements concerning the person's age, consent or nominated address.[77]

Relevant comparisons

The Committee notes that existing s. 163A of the *Infringements Act* 2006 provides:[78]

> (1) Subject to subsection (2) and despite anything to the contrary in section 162(6), a document, other than an infringement notice, served by post to a person at an authorised address and returned undelivered to its sender, is deemed to be served 7 days after the date specified in the document as the date of that document, despite it being returned to its sender as undelivered.

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74 The Committee notes that 'an infringement notice' is for 'an offence which may be the subject of an infringement notice', a 'penalty reminder notice' is served 'on a person on whom an infringement notice was served' and a 'notice of final demand' is served before the enforcement of a 'sum of money payable by an offender under an order of a court made on the offender being convicted or found guilty of an offence', 'a fine… imposed on an offender by a court in accordance with any other Act', 'an order of a court in respect of' an outstanding fine or an 'amount… payable in respect of [an] infringement offence'.

75 The Committee notes that a person served with an infringement notice may elect to have the matter of the infringement offence heard and determined in a court or may apply to have the service of an infringement notice reviewed by the relevant enforcement agency at any time before the amount is registered under the *Fines Reform Act 2014* (*Infringements Act 2006*, ss. 16 & 22) and a person served with a notice of final demand may apply to the Director, Fines Victoria for a review of the service and enforcement of an infringement unless the seven-day notice has expired: *Fines Reform Act 2014*, s. 32.

76 The Committee notes that current requirements for infringement notices, penalty reminder notices and notices of final demand may not include information about deemed postal service: *Infringements Act 2006*, ss. 13 & 29; *Infringements Regulations 2014*, regs 14 & 17; *Fines Reform Act 2014*, s. 24; *Fines Reform Regulations 2017*, reg 12.

77 The Committee notes that no electronic address databases are currently prescribed.

78 See also *Infringements Act 2006*, s. 206; *Magistrates Court Act 1989*, sch. 8, cl. 36; *Marine Safety Act 2010*, s. 178; *Road Safety Act 1986*, ss. 60(6), 60A(6), 84BE & 93(4).

(2) Despite anything to the contrary in section 12(2), an infringement notice in respect of an infringement offence served by post to a person at an authorised address and returned undelivered to its sender, is deemed to be served 7 days after the date of that infringement notice, despite it being returned to its sender as undelivered.

'an authorised address' in existing s. 163A of the *Infringements Act* 2006 means:

(a) an address recorded in relation to a person in a register kept by a public statutory body (including, in relation to a director, alternate director or secretary of a company within the meaning of the Corporations Act, the Australian Securities and Investments Commission) if by law that person or another person is required to notify that public statutory body of any change in that address;

(b) in relation to any document in respect of a transport infringement within the meaning of Part VII of the *Transport (Compliance and Miscellaneous) Act* 1983 or a ticket infringement within the meaning of that Part, an address provided by a person to an authorised officer or police officer under section 218B of that Act after that officer has requested the person to state his or her name and address because the authorised officer or police officer believes on reasonable grounds that the person has committed a transport infringement or a ticket infringement, as the case requires.

A similar rule in existing s. 181 of the *Fines Reforms Act* 2014 for a document sent by post is limited to a document sent to:

(a) an authorised address; or

(b) an address given by the person in the 12 months preceding the date specified in the document in respect of a fines application; or

(c) an address given to a court on the referral of a court fine for collection and management by the Director under Division 2 of Part 3; or

(d) an address given to a court on the referral of an enforcement hearing order for collection by the Director under Division 2A of Part 3.

The Committee observes that these rules may differ in several respects from clauses 32 and 42:

- the current rule for notices under the *Infringements Act* 2006 is limited to an address that was either in a public register (where the person was legally required to notify any change of address) or that was supplied in response to a requirement by a police officer, while the current rule for notices under the *Fines Reforms Act* 2014 is limited to these addresses or to an address either provided within the past 12 months or given to a court.[79] By contrast, clauses 32 and 42 may apply to any electronic address 'nominated' at any time by a person over 16 when they consent (orally or in writing) to receiving 'documents' electronically.
- a posted document will only be 'undelivered' if the item is inadequately addressed, an employee of Australia Post has determined that the item cannot be delivered or an addressee has refused the document or not collected it;[80] and will otherwise only be returned as 'undelivered to its sender' if a person at the address where the document was delivered indicated that the identified recipient was not at that address. By contrast, a notice 'to a sender that an electronic communication had not been received' will typically be generated by a computer owned and managed by an internet services provider or host, be sent at any stage of the electronic communication process and be due to a variety of hardware, software settings or errors, including settings or errors that may be entirely independent of the intended recipient or their nominated electronic address.

[79] The Committee notes that clauses 31(2) and 41 would extend these provisions to include 'an address for the person provided in a nomination statement given by the person in the preceding 12 months'.

[80] See *Australian Postat Corporation Act 1989* (Cth), s. 90Q; *Australian Postal Corporation (Performance Standards) Regulations 2009* (Cth), reg 8(5); *Australia Post General Terms and Conditions* (July 2025), 4.6(a).

The Committee also notes that existing s. 93 of the *Road Safety Act* 1986 provides that an 'electronic address' may be treated as an 'authorised address' for the purposes of a similar rule to existing s. 163A of the *Infringements Act* 2006 if it is 'updated on the basis of notification by a third party and… the Secretary is satisfied that… the third party is a credible source of that information; and… the information is likely to be up-to-date'.[81] The Committee observes that this provision specifies that:

> if—
>
> (a) a notice is returned undelivered ; and
>
> (b) the person to whom the notice was sent demonstrates to the satisfaction of the Secretary that the person could not reasonably be expected to have received the notice—
>
> the Secretary must treat the notice as not having been served effectively on the person.

The Committee further notes that, while some Australian jurisdictions have similar rules to existing ss. 163A of the *Infringements Act* 2006 and 181 of the *Fines Reforms Act* 2014 for posted documents,[82] none may currently have provisions similar to clauses 32 and 42 for electronic communications. The Committee observes that s. 250 of the *Legislation Act* 2001 (ACT) provides:[83]

> (3) If the sender has no reason to suspect that a document served by… email… was not received by the recipient when sent, the document is presumed to be served when sent unless evidence sufficient to raise doubt about the presumption is given.
>
> (4) For subsection (3), the sender has reason to suspect that a document served by… email under this part was not received by the recipient when sent only if, on the day the document was sent or on the next working day, the equipment the sender used to send the document indicated by way of a signal or other message that—
>
> (a) the equipment did not send the document when the equipment was used to send the document; or…
>
> (c) for an email—the address to which the email was sent was not an email address of the recipient.

Conclusion

The Committee will write to the Attorney-General regarding its *Practice Note* and seeking further information as to:

- **whether (and, if so, how) an intended recipient of a fines-related document may provide 'evidence to the contrary' under new sub-sections 179(9) of the *Fines Reform Act* 2014 and 162(6C) of the *Infringements Act* 2006 in relation to an electronic communication where the sender was notified that the communication had not been received**
- **whether or not clauses 32 and 42 are compatible with the Charter rights of persons charged with criminal offences to have their charge decided after a fair hearing and to be notified of the nature and reason for the charge, to the extent that an infringement process or a process for enforcing a fine are a 'charge' for the purposes of the Charter**
- **whether (and, if so, when) a person who consents to receiving documents electronically under existing sub-ss. 179(1)(ca) of the *Fines Reform Act* 2014 and 162(1)(ca) of the *Infringements Act* 2006 will be informed of the effect of clauses 32 and 42**

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81 *Road Safety Act 1986*, s. 93(6). The Committee notes that this provision provides the following examples: 'Notification given by a court, the Sheriff's Office, Victoria Police or any other enforcement agency.'

82 E.g. *Fines Act 1996* (NSW), s. 126A (and see ss. 47(g) & 62(2)).

83 See also *Crimes (Sentence Administration) Act 2005*, s. 116F.

- **the application of clauses 32 and 42 to an electronic address database service that is prescribed under existing sub-ss. 179(1)(cb) of the *Fines Reform Act* 2014 and 162(1)(cb) of the *Infringements Act* 2006; and**
- **whether or not expressly:**
  - **limiting new sections 181A of the *Fines Reform Act* 2014 and 163B of the *Infringements Act* 2006 to electronic addresses that are analogous to postal addresses specified in existing or amended ss. 181 of the *Fines Reform Act* 2014 and 163A of the *Infringements Act* 2006 (i.e. supplied either in response to a legal requirement, under an obligation to update a change of address or in the preceding 12 month);**
  - **providing similarly to existing s. 93 of the *Road Safety Act* 1986; or**
  - **providing similarly to existing sub-ss. 250(3)-(4) of the *Legislation Act* 2001 (ACT);**

would be less restrictive means reasonably available to achieve the purposes of clauses 32 and 42.

Expression – Animal abuse material

Summary: *The effect of clause 68 may be to prohibit material that depicts or describes any animal being killed, tortured or seriously injured by a person and is reasonably regarded as intended to excite or gratify a sexual or sadistic interest. The Committee will write to the Attorney-General seeking further information.*

Relevant provision

The Committee notes that clause 68, inserting a new subdivision (8FAB) into Division 1 of Part 1 of the *Crimes Act* 1958, makes it an offence to produce, distribute, possess or access material that:

(a) depicts or describes—

(i) an animal being crushed, burned, drowned, suffocated, impaled or otherwise killed, tortured or subjected to serious injury; or

(ii) a person sexually penetrating or sexually touching an animal; or

(iii) an animal sexually penetrating or sexually touching a person; and

(b) a reasonable person would regard, in all the circumstances, as being intended to excite or gratify—

(i) a sexual interest; or

(ii) a sadistic interest in violence or cruelty.

An 'animal' means 'means any animal (other than a human being), whether vertebrate or not'.[84] 'material' means 'any film, audio, photograph, image or computer game' or 'any electronic material' but 'does not include text'. The offences do not apply if the material was or would be classified other than RC or the production, distribution, possession or access was for the public benefit or for the purpose of making a public interest report.

The Second Reading Speech remarks:

> Currently in Victoria, acts of bestiality and animal abuse are illegal. However, the possession, production, distribution and accessing of content depicting these acts is not prohibited. This gap needs to be addressed. That is why this Bill introduces new offences that are intended to disrupt and deter the supply of bestiality and animal abuse material in, and connected to, Victoria by ensuring that targeted laws apply to those who create such content, as well as those who consume it.

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84 *Crimes Act* 1958, s. 35 ('animal'), and see clause 67.

The Committee observes that the effect of clause 68 may be to prohibit (the production, distribution, possession or access of) material that depicts or describes any animal (vertebrate or not) being killed, tortured or seriously injured (or sexually touching or being sexually touched by a person) and is reasonably regarded as intended to excite or gratify a sexual or sadistic interest (unless it is or would be classified other than RC or was for the public benefit or a public interest report.)

Charter analysis

The Statement of Compatibility remarks:

> In criminalising the production, distribution, possession and accessing of animal abuse material, the Bill does limit freedom of expression. However, the construction of the provisions ensures that freedom of expression is only subject to such limits under the new provisions as are lawfully necessary – in particular, for the protection of public morality. The definition of 'animal abuse material' inserted by the Bill incorporates an objective standard of the view of 'reasonable persons' and allows for the surrounding circumstances to be considered in determining the intent of the relevant material.
>
> Additionally, the Bill provides for exceptions and defences that promote freedom of expression within acceptable lawful restrictions. These include an exception for classified material (e.g. film and video games) and a defence of public benefit or fair and accurate report. The latter provides a defence where the material has a genuine artistic, agricultural, educational, legal, medical, scientific or veterinary purpose.
>
> The purpose of the new animal abuse offences, in addition to protecting animals, is to protect the public from being exposed to violent and shocking material by criminalising and punishing such conduct. I consider that this falls within the internal qualification of section 15(3) of the Charter, including the protection of the rights and reputations of others, public order and public morality, such that the right to freedom of expression is not limited.

The Committee notes that clause 68 may extend to material depicting or describing animals being killed or seriously injured (whether or not that involves cruelty, torture or particular forms of killing or injury, e.g. crushing.) The Supreme Court of the United States, examining an offence provision in somewhat similar terms to para (a) of clause 68's definition of 'animal abuse material', remarked:[85]

> To begin with, the text of the statute's ban on a "depiction of animal cruelty" nowhere requires that the depicted conduct be cruel. That text applies to "any … depiction" in which "a living animal is intentionally maimed, mutilated, tortured, wounded, or killed." "[M]aimed, mutilated, [and] tortured" convey cruelty, but "wounded" or "killed" do not suggest any such limitation….
>
> The only thing standing between defendants who sell such depictions and five years in federal prison—other than the mercy of a prosecutor—is the statute's exceptions clause…

The Committee observes that, while clause 68 differs from the provision considered by that Court because para (b) of the definition of 'animal abuse material' requires that a reasonable person would regard the material as intended to gratify or excite a sexual interest or 'a sadistic interest in violence or cruelty' and provides for defences for material that would be classified otherwise than RC[86] or is in the public interest, the Court remarked that 'although there may be "a broad societal consensus"

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85 *United States v Stevens*, 559 U.S. 460 (2010), 474, 477.

86 The Committee notes that RC classifications are given to: publications if they contain '(d) realistic depictions of bestiality; or if they contain gratuitous, exploitative or offensive descriptions or depictions of: (e) violence with a very high degree of impact which are excessively frequent, emphasised or detailed; (f) cruelty or real violence which are very detailed or which have a high impact' (*Guidelines for the Classification of Publications 2005* (Cth); and films or games if they include or contain 'detailed instruction or promotion in matters of crime or violence' or 'Gratuitous, exploitative or offensive depictions of: (i) violence with a very high degree of impact or which are excessively frequent, prolonged or detailed; (ii) cruelty or real violence which are very detailed or which have a high impact' or 'Depictions of practices such as bestiality' (*Guidelines for the Classification of Films 2012* (Cth); *Guidelines for the Classification of Computer Games 2023* (Cth)). The Committee observes that 'cruelty' in these guidelines carries its Macquarie dictionary meaning, i.e. 'the state or quality of being… disposed to inflict suffering; indifferent to, or taking pleasure in, the pain or distress of another; hard-hearted; pitiless'.

against cruelty to animals… there is substantial disagreement on what types of conduct are properly regarded as cruel'[87], citing depictions or descriptions of animals fighting (e.g. bullfighting, and, the subject of that case, dogfighting) or being hunted or slaughtered as examples.[88]

The Committee also notes that, while Victoria's bestiality offence (as amended by clause 65) includes a person sexually touching or being sexually touched by 'any animal (other than a human being), whether vertebrate or not', Victoria's current cruelty offence (in existing s. 9 of the *Prevention of Cruelty to Animals Act* 1986) only applies to cruel treatment of:

(a) a live member of a vertebrate species including any—

  (i) fish or amphibian that is capable of self-feeding; or

  (ii) reptile, bird or mammal, other than any human being…

(b) a live adult decapod crustacean…

The Committee observes that, to the extent that clause 68 may prohibit material that depicts or describes killing, torturing or seriously injuring invertebrates other than lobsters, crabs and crayfish (e.g. insects, spiders, snails, clams, octopuses, barnacles, krill, jellyfish, corals, starfish, worms and sponges), it may prohibit depictions or descriptions of conduct that is not currently unlawful.

The Committee further notes that the definition of 'animal abuse material' includes material that 'depicts or describes' killing, torturing, seriously injuring or sexual touching of or by an animal and specifies that '[i]t It does not matter whether the conduct or animal depicted or described is real so long as the depiction or description is realistic.' The Explanatory Memorandum explains:

> Written material is intentionally excluded from this definition to not inadvertently capture fictional narratives or personal writings that go beyond the purpose of the Bill. This exclusion is otherwise not intended to prevent written material and text being adduced as evidence to substantiate a charge for an animal abuse material offence; for example, written instructions or directions to produce animal abuse material.

The Committee observes that it may be unclear whether the exclusion of 'text' includes spoken fictional narratives or personal accounts.

Relevant comparisons

The Committee notes that New South Wales and the Northern Territory currently prohibit material that:[89]

(a) depicts or describes--

  (i) bestiality, or

  (ii) an animal being crushed, burned, drowned, suffocated, impaled or otherwise killed or subjected to serious injury, and

(b) is material that a reasonable person would regard in all the circumstances as being intended or apparently intended to--

  (i) excite or gratify a sexual interest, or

  (ii) excite or gratify a sadistic or other perverted interest in violence or cruelty.

The Committee observes that, while these provisions are similar to clause 68, both include text and neither excludes material that 'would be' classified other than RC or provides a general public interest

87 *United States v Stevens*, 559 U.S. 460 (2010), 476.

88 *United States v Stevens*, 559 U.S. 460 (2010), 478-479.

89 *Crimes Act 1900* (NSW), s. 547E; *Criminal Code Act 1983* (NT), sch. 1, ss. 125A & 125DA.

defence. The Committee also observes that neither provision defines 'animal', but that a separate New South Wales offence of 'serious animal cruelty' is limited to mammals, birds and reptiles.[90]

Conclusion

The Committee will write to the Attorney-General seeking further information as to whether or not:

- **the word 'text' in clause 68's definition of 'material' includes spoken descriptions.**
- **limiting para (a)(i) of the definition of 'animal abuse material' to killing, seriously injuring or torturing that contravenes s. 9 of the *Prevention of Cruelty to Animals Act* 1986 would be a less restrictive means reasonably available to achieve the purpose of clause 68.**

[90] *Crimes Act 1900* (NSW), s. 530(3).

Victorian Early Childhood Regulatory Authority Act 2025

Member	Hon Lizzie Blandthorn MP	**Introduction Date**	28 October 2025
Portfolio	Children	**Second Reading Date**	29 October 2025
		Royal Assent	25 November 2025

Note: The Committee reports on this Act pursuant to section 17(c)(ii) of the *Parliamentary Committees Act 2003*.

The Committee reported on the Victorian Early Childhood Regulatory Authority Bill 2025 in *Alert Digest No. 15 of 2025*[91] tabled on 12 November 2025. The Committee wrote to the Minister on 13 November 2025. The Minister responded on 20 November 2025. Please see Ministerial Correspondence. The Committee provides a further report.

Spent convictions – Early Childhood Regulator

Summary: *The Committee thanks the Minister for her response. The Committee will write to the Minister seeking further information.*

The Committee thanks the Minister for her response.

The Minister 's letter remarks that:

> in accordance with section 24D(2)(a) of the Spent Convictions Act, any references in clauses 10(2)(b) and 12(3)(b) of the VECRA Bill to such a person being convicted are to be taken not to refer to a spent childhood conviction.

The Committee notes existing s. 3 of the *Spent Convictions Act* 2021 defines a 'spent childhood conviction' to mean 'a conviction imposed on a person at 10 or 11 years of age' and that existing s. 24D(2)(a) of that Act provides that 'a reference to a conviction, however expressed, is to be taken not to refer to a spent childhood conviction'. The Committee observes that the effect of new section 10(2)(b) of the *Victorian Early Childhood Regulatory Authority Act* 2025 may be that a person will be able to be nominated for appointment as Early Childhood Regulator even if the person was found guilty of an indictable offence when that person was 10 or 11 years of age.

The Minister's letter also remarks:

> The existing provisions concerning members of Parliament in the *Constitution Act* 1975 were most recently amended in 1981 (see the *Crimes (Classification of Offences) Act* 1981) and have the same effect as section 24D of the Spent Convictions Act. Section 44(3) of the *Constitution Act* 1975 provides:
>
> > ... an elector who has been convicted or found guilty of an indictable offence which by virtue of any enactment is punishable upon first conviction by imprisonment for life or for a term of 5 years or more committed by him when of or over the age of 18 years under the law of Victoria or under the law of any other part of the British Commonwealth of Nations shall not be qualified to be elected a member of the Council or the Assembly.

In my view it is appropriate and necessary:

- to explicitly hold the new Regulator to the same eligibility criteria as Members of Parliament…

[91] See *Alert Digest No 15 of 2025*, Victorian Early Childhood Regulatory Authority Bill 2025, pp 54-58 <https://www.parliament.vic.gov.au/4aca73/globalassets/committee-publication-record-documents/committee-36/publication-372/alert-digest-no-15-of-2025.pdf>.

The Committee notes that, while existing s. 44(3) of the *Constitution Act* 1975 and new section 10(2)(b) of the *Victorian Early Childhood Regulatory Authority Act* 2025 both generally disqualify a person from office (respectively as a Member of Parliament or the Early Childhood Regulator) who 'has been convicted or found guilty of an indictable offence', existing s. 44(3) of the *Constitution Act* 1975 may exclude offences committed when the person was under 'the age of 18 years', while the combined operation of new section 10(2)(b) of the *Victorian Early Childhood Regulatory Authority Act* 2025 and existing s. 24D(2)(a) of the *Spent Convictions Act* 2021 only excludes offences committed when the person was '10 or 11 years of age'. The Committee observes that a person who has committed an indictable offence at 12, 13, 14, 15, 16 or 17 years of age may be disqualified from nomination as the Early Childhood Regulator but may be qualified to be elected as a Member of Parliament.[92]

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

- **new section 10(2)(b) of the *Victorian Early Childhood Regulatory Authority Act* 2025 disqualifies people who have been found guilty of an indictable offence committed when the person was aged 12, 13, 14, 15, 16 or 17 years of age from being nominated as the Early Childhood Regulator; and**
- **explicitly using the same qualification criteria as existing s. 44(3) of the *Constitution Act* 1975 as the qualification criteria for the Early Childhood Regulator would be a less restrictive means reasonably available to achieve the purpose of new section 10(2)(b).**

[92] The Committee notes that existing s. 44(3) of the *Constitution Act 1975*, unlike new section 10(2)(b) of the *Victorian Early Childhood Regulatory Authority Act 2025*, expressly excludes all indictable offences that are: punishable upon first conviction by less than 5 years imprisonment (e.g. the offence of possession of a non-trafficable amount of cannabis); under the laws of a country outside of the British Commonwealth of Nations; and spent convictions (see s. 20(4) of the *Spent Convictions Act 2021*.)

Ministerial Correspondence

The Committee received responses from Ministers in relation to the Acts listed below.

The Committee thanks Ministers for the attached information.

The responses are reproduced. Please refer to Appendix 3 for additional information.

Local Jobs First Amendment Act 2025

Victorian Early Childhood Regulatory Authority Act 2025

Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025

The Hon Colin Brooks MP

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Ref: CMIN-2-25-27300

Gary Maas MP
Chair, Scrutiny of Acts and Regulations Committee
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Via email: sarc@parliament.vic.gov.au

Dear Mr Maas,

Local Jobs First Amendment Bill 2025

Thank you for your letter dated 31 July 2025 seeking further information on issues raised by the Scrutiny of Acts and Regulations Committee (**Committee**) about the Local Jobs First Amendment Bill 2025 (**Bill**).

I note that the letter was sent to Minister Pearson as Minister for Economic Growth and Jobs, who has passed it on to me for response as the Minister for Industry and Advanced Manufacturing with joint responsibility for administering the *Local Jobs First Act 2003*.

Specifically, the Committee seeks further information about:

- the commencement of Parts 2, 3 and 4
- the effect of new section 11I on any powers or authorities of the Supreme Court, and
- whether new section 11I is compatible with the Charter, in that it is a less restrictive means reasonable available to achieve its purpose.

Inappropriately delegates legislative power (s 17(a)(vi) *Parliamentary Committees Act 2003*) - delayed forced Commencement

Relevant provisions in the Act

Section 2 of the *Local Jobs First Amendment Act 2025* (the amending Act) deals with the commencement provisions in the amending Act. Section 2(1) provides that Parts 1, 5 and 7 and section 43 come into operation on the day after the day the Bill receives Royal Assent.

Section 2(2) provides that the remaining provisions of the amending Act come into operation on a day or days to be proclaimed, subject to section 2(3).

Section 2(3) provides that, if a provision of the amending Act does not come into operation before 1 July 2026, it comes into operation on that day.

Policy rationale

To ensure flexibility in the timing of commencement, the provisions in the amending Act (apart from Parts 1, 5 and 7 and section 43) commence upon proclamation, with a default commencement date of 1 July 2026, which is just over 12 months from the date on which the Bill was introduced to the Parliament (being 18 June 2025).

I note that the default commencement of 1 July 2026 is 13 days longer than the usual default commencement date of 12 months from the date of introduction of the Bill.

While the amending Act allows for provisions that do not come into operation the day after Royal Assent to be proclaimed, it is intended that all remaining provisions will commence on the default commencement date of 1 July 2026. The 1 July 2026 default commencement date was chosen as it aligns with the commencement of the financial year which is generally used as the date for new contract templates by agencies, and Local Jobs First reporting obligations, and will also align with the 2026-27 budget cycle.

This commencement timetable is also essential to support critical implementation activities. In particular, the lead time between Bill passage and commencement for the remainder of the provisions is necessary due to the volume of preparatory work required to support the successful implementation of the reforms.

This implementation work involves the preparation of new and updated subordinate instruments to support the reforms in the Act, including making of regulations in relation to the transitional arrangements and the administrative and procedural details of the new deprioritisation regime, amendments to the Local Jobs First Policy, Local Jobs First Agency and Supplier Guidelines and Local Jobs First Model Clauses; updates to databases, the online information transfer portal and reporting systems; and communication and education activities to support agencies and suppliers to comply with new requirements and processes.

For example, the following implementation activities must occur prior to the commencement of the amendments and cannot be completed earlier than the default commencement date of 1 July 2026:

- **Updates to Model Clauses:** All Local Jobs First projects must incorporate LJF Model Clauses into the project contract. These Model Clauses need to be updated to reflect the amendments introduced by the amending Act. After the Model Clauses are updated, agencies will require time to revise their project contracts to incorporate the updated Model Clauses for new projects from the date the new provisions commence.
- **Establishment of deprioritisation regime:** The administration and implementation of the new deprioritisation regime will be supported by regulations as well as updates to operational processes and systems. This preparatory work and the making of regulations is essential to successfully establish the deprioritisation regime and cannot be commenced until after the Bill's passage.
- **Implementation funding:** Funding of $6.3 million was allocated for the administration and delivery of Local Jobs First in the 2025/26 State Budget. Appropriate levels of funding to implement and deliver the reforms will be considered as part of the 2026/27 State Budget, in

time for the commencement of the reforms related to the Local Jobs First Commissioner's expanded powers and functions on 1 July 2026. This is likely to include additional resourcing for the Office of the Local Jobs First Commissioner.

Repeal, alteration or variation of s 85 of the *Constitution Act 1975* (s 17(b)(i) and (iii) *Parliamentary Committees Act 2003*) - exclusion of liability

The Committee notes that clause 19 inserts a new Part 2A into the *Local Jobs First Act 2003*, including a new section 11I as follows:

> **11I State liability**
>
> Despite any Act (other than the *Charter of Human Rights and Responsibilities Act 2006*) or law to the contrary, the State and the Commissioner are not liable in any way for any loss, damage or injury of any kind resulting directly or indirectly from or arising out of—
>
> (a) the amendments made to this Act by the Local Jobs First Amendment Act 2025; or
>
> (b) the confirmation of a deprioritisation notice or the making of a deprioritisation determination.

The Committee observes that the amendments in the Bill provide the Local Jobs First Commissioner with the power to apply to a court for a civil penalty order and providing a court with the power to order that a person who contravened a civil penalty requirement pays an amount up to a specified maximum into the Consolidated Revenue.

The Committee seeks further information as to whether clause 19 seeks to limit the orders the Supreme Court may make against the Local Jobs First Commissioner or the State arising from a civil penalty order proceeding (for example, an order requiring the Commissioner to pay a respondent's costs, compensate a respondent for an application that a court rules is an abuse of process or repay a payment made on a civil penalty order that is overturned on appeal).

I advise the Committee that new section 19 is not intended to directly or expressly repeal, alter or vary section 85 of the *Constitution Act 1975*. The immunity provision is intended to shield the Commissioner from any liability for the consequences (such as loss or damage) which could result to a supplier from action taken by the Commissioner in response to that supplier's non-compliance with the Local Jobs First scheme. The new section is not intended to affect the Supreme Court's inherent powers to make orders against the Commissioner as described by the Committee, such as a cost order against the Commissioner, compensation in relation to an abuse of process or a refund in relation to an overturned civil penalty order.

Charter Issues - property - State immunity for loss, damage or injury

The Committee observes that the effect of clause 19 may be to bar anyone who has suffered loss, damage or injury arising directly or indirectly from the amendments in the Bill from obtaining a remedy of any kind for such losses from the government of Victoria (or the Local Jobs First Commissioner). The Committee notes that the terms of this clause are broader than many comparative immunity provisions on the Victorian statute book, which transfer liability for good faith

exercises of statutory powers or duties to the State. The Committee asks why a more narrowly framed immunity such as these is not a less restrictive alternative to new section 11I.

In my view, new section 11I is an appropriately tailored immunity for this scheme. As noted by the Committee, the scope is consistent with wording used in other immunities (e.g. section 251A of the *Petroleum Act 1998* which was inserted in 2017 and section 121A of the *Mineral Resources (Sustainable Development) Act 1990* which was also inserted in 2017), which concern a similar context in terms of preventing State liability for legislative measures that operate to restrict industry activity in a certain way that may cause loss to a person, but much more likely, to a company.

As I described in the Statement of Compatibility, the Commissioner is a creature of statute and exercises confined powers and functions that operate to limit the scope of the immunity. While the immunity may be broadly framed, it would apply only in the limited circumstances where a supplier may otherwise consider taking legal action against the Commissioner for compliance action taken against them. This supports the objectives of the Local Jobs First scheme which includes ensuring that suppliers comply with their commitments made when they submit the Local Industry Development Plans as part of tenders for Government contracts that are subject to the scheme. Therefore, the immunity in section 11I is necessary to achieve the objectives of ensuring that the Commissioner can effectively perform their functions and exercise their powers without assuming legal or financial risk in the event that a supplier's commercial interests are adversely impacted by any compliance or enforcement action taken by the Commissioner in relation to that supplier.

Finally, I consider any less restrictive measure that seeks to instead transfer liability to the State to be inappropriate in this context, and that it would not be in the public interest for a supplier to be able to bring a claim against the State for loss suffered as a result of non-compliance with their own statutory and contractual obligations. A transfer of liability to the State for good faith exercises of statutory powers or functions by the Commissioner would undermine the Local Jobs First regulatory framework by weakening the effect of statutory deterrents against non-compliance with suppliers' Local Jobs First obligations. In addition to any potential contractual consequences for non-compliance with these obligations, these deterrents include the Commissioner's statutory powers and functions to take compliance and enforcement action that may ultimately lead to financial or other adverse outcomes for the supplier.

I trust this information has been of assistance to the Committee, and I thank you for the question. Should you require further information, please contact Nanette Fitzgerald, Executive Director, Industry Development, Construction, Manufacturing and Talent, Department of Jobs, Skills, Industry and Regions by email at nanette.fitzgerald@ecodev.vic.gov.au.

Yours sincerely,

The Hon. Colin Brooks MP

Minister for Industry and Advanced Manufacturing

14 / 11 / 2025

cc The Hon. Natalie Suleyman, Minister for Small Business and Employment

Hon Lizzie Blandthorn MP

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Dear Mr Maas

Thank you for your correspondence of 13 November 2025 regarding the Scrutiny of Acts and Regulations Committee consideration of the Victorian Early Childhood Regulatory Authority (VECRA) Bill 2025 and the questions in Alert Digest No. 15 of 2025, tabled in Parliament on 12 November 2025.

My responses to these questions are as follows:

Whether or not sub-clauses 10(2)(b) & 12(3)(b) may bar a person from appointment as the Early Childhood Regulator on the basis of a spent conviction

Clauses 10(2)(b) and 12(3)(b) of the Victorian Early Childhood Regulatory Authority Bill 2025 (the VECRA Bill), respectively, relevantly provide that the Minister must not:

- recommend a person for appointment as the Early Childhood Regulator (Regulator), or
- recommend for appointment or appoint a person as acting Regulator—

on the basis of a spent conviction.

However, section 24D(1)(b) of the *Spent Convictions Act 2021* (Spent Convictions Act) provides that the Minister must not use a spent childhood conviction or information relating to that conviction to refuse, revoke or terminate the person's appointment as the Regulator. In accordance with section 24D(2)(a) of the Spent Convictions Act, any references in clauses 10(2)(b) and 12(3)(b) of the VECRA Bill to such a person being convicted are to be taken not to refer to a spent childhood conviction.

If [sub-clauses 10(2) & 12(3)(b) may bar a person from appointment], whether or not sub-clauses 10(2)(b) & 12(3)(b) are compatible with the Charter's rights relating to discrimination on the basis of a spent conviction

In my view, any limitation on rights in the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) relating to discrimination on the basis of spent convictions is demonstrably justified due to the relationship between the limitation in clauses 10(2)(b) and 12(3)(b) of the VECRA Bill and their purpose. Barring people with spent convictions (but not spent childhood

convictions) from being appointed as Regulator or acting Regulator will help to ensure the highest possible level of trust and public confidence in the head of the Victorian Early Childhood Regulatory Authority (Authority).

The purpose of the limitation is of exceptional importance. The Rapid Child Safety Review (the Rapid Review) found that to maintain public trust in early childhood education and care in Australia, the safety and protection of children should be the paramount consideration for all parties operating under the National Law. This includes in the appointment of the Early Childhood Regulator.

Any limitation on rights in the Charter relating to discrimination on the basis of spent convictions is consistent with the community's expectations following the government response to the Rapid Review. The appointment of a person who has been convicted of an offence, even if spent, would undermine public trust in the Authority.

Whether or not existing provisions concerning the current children's regulator, members of Parliament, the Commissioner for Children and Young People, the Social Services Regulator or South Australia's statutory board are less restrictive means reasonably available to achieve the purpose of sub-clauses 10(2)(b) & 12(3)(b).

I note that consistent with well-established government policy, including in the Appointment, remuneration and diversity guidelines, all candidates for public office are subject to rigorous suitability assessments. However, clauses 10(2)(b) and 12(3) of the VECRA Bill go beyond the existing provisions concerning the current early childhood education and care regulator, the Commissioner for Children and Young People (CCYP), the Social Services Regulator (SSR) and the South Australian Education Standards Board in order to meet community expectations, particularly in light of the Rapid Review and the government response to the Rapid Review.

The existing provisions concerning:

- the current early childhood education and care regulator are silent on eligibility requirements for Regulatory Authorities because those provisions contemplate bodies corporate, rather than individuals, being Regulatory Authorities.
- the CCYP do not explicitly refer to findings of guilt or convictions for offences, but rather (in section 16 of the *Commissioner for Children and Young People Act 2012*) provide that the Governor in Council may remove the Principal Commissioner from office on the following grounds—
    - misconduct
    - neglect of duty
    - any other ground on which the Governor in Council is satisfied that the Principal Commissioner or the Commissioner is unfit to hold his or her office.
- the SSR provide that the office of the SSR becomes vacant if the SSR is convicted or found guilty of an indictable offence (or an offence that, if committed in Victoria, would be an indictable offence) (see section 10(1) of the *Social Services Regulation Act 2021*).
- the SA Education Standards Board provide that a person is not eligible to be appointed to the Board unless a working with children check has been conducted in relation to the member within the preceding 5 years (see section 22(2)(a) of the *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA)).

The existing provisions concerning members of Parliament in the *Constitution Act 1975* were most recently amended in 1981 (see the *Crimes (Classification of Offences) Act 1981*) and have the same effect as section 24D of the Spent Convictions Act. Section 44(3) of the *Constitution Act 1975* provides:

> … an elector who has been convicted or found guilty of an indictable offence which by virtue of any enactment is punishable upon first conviction by imprisonment for life or for a term of 5 years or more committed by him when of or over the age of 18 years under the law of Victoria or under the law of any other part of the British Commonwealth of Nations shall not be qualified to be elected a member of the Council or the Assembly.

In my view it is appropriate and necessary:

- to explicitly hold the new Regulator to the same eligibility criteria as Members of Parliament
- not to rely solely on reactive provisions for removal of an entity head from office based on conduct during their term of office, or a point in time suitability check (which might have occurred up to 5 years ago under the *Education and Early Childhood Services (Registration and Standards) Act 2011* (SA)).

Yours sincerely

Hon Lizzie Blandthorn MP
Deputy Leader of the Government in the Legislative Council
Minister for Children
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20/11/25

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Dear Mr ~~Maas~~ Gary

I refer to your letter of 11 September 2025 on behalf of the Scrutiny of Acts and Regulations Committee (the Committee), enclosing an extract from the Alert Digest No. 12 of 2025, tabled in Parliament the following day. I understand that the Committee has several queries on the reforms in the *Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025*, which commenced on 28 August 2025. As the Minister that was responsible for the Bill at the time of its passage, I am pleased to provide the following information in response to the Committee's queries.

Query 1(a) – *Whether or not, in a prosecution under s. 129(c), the prosecution must prove that the accused knew or was reckless as to his or her exclusion from child-related work under a corresponding working with children law.*

Section 129 of the *Worker Screening Act 2020* (Vic) is a strict liability offence, therefore in prosecuting a charge under section 129(c) the prosecution is not required to prove that an accused knew or was reckless as to whether they had been excluded from child-related work under a corresponding working with children law.

This approach reflects the severity of an offence against section 129, which seeks to prohibit people who have been identified as representing a significant risk to the safety of children (or the community more broadly) from applying for a Working with Children (WWC) check. This includes sex offenders (section 129(a)) and serious offenders (section 129(b)). The classification of a person who has been excluded from child-related work under a corresponding working with children law in this same offence recognises that another State or Territory has already determined that the person poses a risk to the safety of children and respects the authority of other jurisdictions' WWC exclusions. Noting the potential risk to

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the safety of children in allowing a person who has been given a WWC exclusion in another jurisdiction to engage in child-related work in Victoria, it is reasonable that section 129(c) does not expressly require an accused to know, or be reckless as to whether, they have been given an interstate WWC exclusion.

This approach is largely consistent with section 122 of the Act, which imposes a restriction on a person who has been given a WWC exclusion in Victoria. Although this section provides a defence for not knowing the work engaged in was child-related work, it does not expressly include elements that require the relevant person to know, or be reckless as to whether, they had been given a WWC exclusion.

Query 1(b) – *The meaning of para (c) of the definition of 'excluded from child-related work under a corresponding working with children law' in s. 3(1).*

The definition of 'excluded from child-related work under a corresponding working with children law' contained in section 3(1) was not inserted nor amended by the *Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025*. It is a definition that formed part of the *Worker Screening Act 2020* as first enacted.

The explanatory memorandum to the Worker Screening Bill 2020, provides that 'this definition is required to ensure that a person who has been excluded from child-related work in another State or a Territory can be assessed for the purposes of the WWC check if they apply for a WWC check or hold a WWC clearance'. Paragraph (c) is worded in a sufficiently broad way to ensure that a WWC exclusion given in another jurisdiction is captured, regardless of the terminology used in the corresponding working with children law. This acknowledges the varied approaches to legislating WWC checks across jurisdictions, including through standalone legislation (such as the *Child Protection (Working with Children) Act 2012* (NSW)) or as part of broader legislation (such as the *Worker Screening Act 2020* (Vic) or the *Registration to Work with Vulnerable People Act 2013* (Tas)).

It is not expected that this definition would extend to people who have not applied for a WWC clearance or who have not been given a WWC exclusion in another jurisdiction.

Query 2 – *The meaning of 'has been otherwise prohibited' in the Worker Screening Act 2020's definition of 'excluded from child-related work under a corresponding working with children law', including whether or not it extends to people who have not been 'given' an exclusion or have no connection with the corresponding jurisdiction.*

Please see the response to Query 1(b) above.

Query 3 – *The meaning of 'provides for screening of persons' in the Worker Screening Act 2020's definition of 'corresponding working with children law', including whether or not it includes provisions that impose blanket restrictions on certain categories of person.*

It is intended that sections 4, 6, 10, 11, 16 and 18 of the *Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025* are limited in their application to people who have been given a WWC exclusion, or who have had their WWC clearance revoked, under a corresponding working with children law in another jurisdiction.

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The definition of 'excluded from child-related work under a corresponding working with children law' is discussed above at Query 1(b). The analysis at Query 1(b) also applies to the definition of 'corresponding working with children law' under section 3(1) of the *Worker Screening Act 2020*, which is worded in a sufficiently broad way to capture legislation that govern WWC checks in other jurisdictions.

The definition of 'corresponding working with children law', including the terminology 'that provides for screening of persons' and 'substantially corresponds with the relevant provisions of' the Act, is not intended to require that the corresponding legislation mirrors provisions contained in the Act or duplicates Victoria's approach to WWC checks.

Query 4 – *The meaning of 'substantially corresponds with the relevant provision' in the Worker Screening Act 2020's definition of 'corresponding working with children law', including whether or not it includes provisions that are more onerous than Victoria's or are incompatible with human rights.*

Please see the response to Query 3 above.

Query 5 – *Whether or not Queensland's provision on adverse interstate WWC decisions would have been a less restrictive means reasonable available to achieve the purpose of the Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025.*

The approach taken in Queensland regarding interstate WWC exclusions is narrower than the Victorian approach. This may provide greater clarity in statutory interpretation, however it may also limit the application of Queensland's legislation in circumstances where another jurisdiction uses terminology that is not recognised in the *Working With Children (Risk Management and Screening) Act 2000* (Qld). The variation in drafting approaches adopted by State and Territory working with children laws informs the definition of 'excluded from child-related work under a corresponding working with children law' included in the *Worker Screening Act 2020* (Vic).

I also note the Committee's discussion about the NDIS check. NDIS worker screening is a nationally consistent scheme that is administered by each State and Territory in accordance with an Intergovernmental Agreement between the Commonwealth and State and Territory governments. The provisions contained in the *Worker Screening Act 2020* (Vic) that relate to NDIS worker screening, including NDIS interstate exclusions, are largely uniform across jurisdictions. This facilitates the mutual recognition of NDIS interstate exclusions across all jurisdictions with relatively little complexity. Comparatively, WWC checks are developed, legislated and operationalised by each jurisdiction individually with some elements of national consistency. The two schemes are not comparable in this regard.

The amendments to the *Worker Screening Act 2020* made by the *Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025* will be monitored to

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ensure they are operating as intended, including to protect the rights of children to be free from harm.

I hope this information is of use to the Committee.

Yours sincerely



Sonya Kilkenny
Attorney-General

Date: 30-11-2020

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Appendix 1
Index of Bills and Subordinate Legislation in 2025

BILLS	Alert Digest Nos.
Agriculture and Food Safety Legislation Amendment Bill 2024	13 of 2024, 1
Appropriation (2025-2026) Bill 2025	7
Appropriation (Parliament 2025-2026) Bill 2025	7
Australian Grands Prix Amendment Bill 2025	11
Bail Amendment Act 2025	5
Bail Further Amendment Bill 2025	10, 11
Building Legislation Amendment (Buyer Protections) Bill 2025	4
Building Legislation Amendment (Fairer Payments on Jobsites and Other Matters) Bill 2025	13 Vol. B
Casino and Gambling Legislation Amendment Bill 2025	12
Charter of Human Rights and Responsibilities Amendment (Right to Housing) Bill 2025	9, 10
Children, Youth and Families Amendment (Stability) Bill 2025	15
Constitution Amendment (Abortion) Bill 2024	2, 4
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	1, 4
Consumer Legislation Amendment Bill 2025	14
Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025	17
Corrections Legislation Amendment Bill 2025	7, 9
Crimes Amendment (Performance Crime) Bill 2025	9
Crimes Amendment (Retail, Fast Food, Hospitality, and Transport Worker Harm) Bill 2025	16
Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025	11, 13 Vol. A
Domestic Building Contracts Amendment Bill 2025	9, 11
Drugs, Poisons and Controlled Substances (Medication Administration in Residential Aged Care) Bill 2025	10, 12
Early Childhood Legislation Amendment (Child Safety) Bill 2025	16
Energy and Land Legislation Amendment (Energy Safety) Act 2025 [House Amendments]	7
Energy and Land Legislation Amendment (Energy Safety) Bill 2025	2
Family Violence Protection Amendment Act 2025	5, 6
Financial Management Legislation Amendment Bill 2025	8, 10
Fire Services Property Amendment (Emergency Services and Volunteers Fund) Bill 2025	4
Fire Services Property Amendment (Emergency Services and Volunteers Fund) Bill 2025 [House Amendments]	7
Gambling Legislation Amendment (Pre-commitment and Carded Play) Bill 2024	1
Gambling Legislation Amendment Bill 2025	6
Help to Buy (Commonwealth Powers) Bill 2025	3
Independent Broad-based Anti-corruption Commission Amendment (Ending Political Corruption) Bill 2024	15
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025 [House Amendments]	6, 8
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024	1
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024 [House Amendments]	3, 6
Justice Legislation Amendment (Committals) Bill 2024	15 of 2014, 1
Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Bill 2025	16

BILLS (continued)

Justice Legislation Amendment (Miscellaneous) Bill 2025 [House Amendments] 8, 12
Justice Legislation Amendment (Miscellaneous) Bill 2025 6, 8
Justice Legislation Amendment (Police and Other Matters) Bill 2025 16
Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025 17
Justice Legislation Further Amendment (Miscellaneous) Bill 2025 17
Labour Hire Legislation Amendment (Licensing) Bill 2025 14
Local Jobs First Amendment Bill 2025 9, 16
Mental Health Legislation Amendment Bill 2025 13 Vol. B
Mineral Resources (Sustainable Development) Amendment (Financial Assurance) Bill 2025 15
National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025 9, 12
Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025 13 Vol. B
Planning Amendment (Better Decisions Made Faster) Bill 2025 15
Protecting Public Assets and Services Bill 2024 13 of 2024
Regulatory Legislation Amendment (Reform) Bill 2025 2
Restricting Non-Disclosure Agreements (Sexual Harassment at Work) Bill 2025 15
Retirement Villages Amendment Bill 2024 [House Amendments] 8
Retirement Villages Amendment Bill 2024 1
Roads and Ports Legislation Amendment (Road Safety and Other Matters) Bill 2025 7
Roads and Road Safety Legislation Amendment Bill 2024 [House Amendments] 15 of 2024, 1
Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Bill 2025 3
Safer Protest with a Registration System and a Ban on Face Coverings Bill 2025 12
Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025 16
State Taxation Acts Amendment Act 2025 [House Amendments] 9
State Taxation Acts Amendment Bill 2025 8, 9
State Taxation Further Amendment Bill 2024 15 of 2024
State Taxation Further Amendment Bill 2025 14
Statewide Treaty Bill 2025 13 Vol. A, 14
Statute Law Revision Bill 2025 8
Superannuation Legislation Amendment Bill 2025 4
Terrorism (Community Protection) and Control of Weapons Amendment Act 2025 5, 7
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024 1, 3
Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024 16 of 2024, 1
Transport Legislation Amendment (Vehicle Sharing Scheme Safety and Standards) Bill 2025 3
Transport Legislation Amendment Bill 2025 14
Victorian Civil and Administrative Tribunal Amendment (Reporting of Guardianship and Administration Proceedings) Bill 2025 11
Victorian Early Childhood Regulatory Authority Bill 2025 15, 17
Victorian Early Childhood Regulatory Authority Act 2025 17
Victorian Energy Efficiency Target Amendment (Energy Upgrades for the Future) Bill 2025 5
Voluntary Assisted Dying Amendment (Equity and Access) Bill 2024 4
Voluntary Assisted Dying Amendment Bill 2025 14
Wage Theft Amendment Bill 2025 6, 11
Worker Screening Amendment (Safety of Children) Bill 2025 11
Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025 12, 17
Workplace Injury Rehabilitation and Compensation Amendment Bill 2025 4
Wrongs Amendment (Vicarious Liability) Bill 2025 6, 8

SUBORDINATE LEGISLATION

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

SUBORDINATE LEGISLATION (continued)

SR No 42 – Forests (Tour Operator Licence Fee) Amendment Regulations 2025 13 Vol. A
SR No 43 – Land (Tour Operator Licence Fee) Amendment Regulations 2025 13 Vol. A
SR No 47 – Mental Health and Wellbeing Amendment (Parkville Youth Mental Health and Wellbeing Service) Regulations 2025 13 Vol. A
SR No 48 – Subordinate Legislation (Road Management (Works and Infrastructure) Regulations 2015) Extension Regulations 2025 13 Vol. A
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
SR No 90 – Credit Regulations 2024 6
SR No 92 – Local Government (Infringement Notices) Regulations 2024 6
SR No 95 – Livestock Disease Control Further Amendment Regulations 2024 4
SR No 102 – Road Safety (General) Amendment (Electric Scooters) Regulations 2024 6
SR No 108 – Subordinate Legislation (Gambling Regulation (Pre-commitment and Loyalty Scheme) Regulations 2014) Extension Regulations 2024 4
SR No 113 – Plant Biosecurity Amendment Regulations 2024 6
SR No 124 – Supreme Court (Fees) Amendment Regulations 2024 6
SR No 125 – Firearms Amendment Regulations 2024 9
SR No 129 – Transport (Compliance and Miscellaneous) (Ticketing) Amendment Regulations 2024 9
SR No 130 – Residential Tenancies and Residential Tenancies (Rooming House Standards) Amendment (Minimum Energy Efficiency and Safety Standards) Regulations 2024 9
SR No. 9 – Local Government (Governance and Integrity) Amendment Regulations 2025 11
No. 26 – Health Practitioner Regulation National Law Amendment (Professional Indemnity Insurance) Regulations 2025 11
SR No 31 – Meat Industry Regulations 2025 15
Australian Computer Society Incorporated Professional Standards Scheme 6
By-law No. 2024/01 Waterways Protection – North East Catchment Management Authority 4
By-law No. 02 Waterways Protection 2024 – North Central Catchment Management Authority 4
By-law No. 3 Waterways Protection 2024 – Wimmera Catchment Management Authority 4
By-law No. 2 Waterways Protection 2024 – Mallee Catchment Management Authority 4
By-law No. 4 Waterways Protection 2024 – West Gippsland Catchment Management Authority 4
By-law No. 5 Waterways Protection 2024 – Corangamite Catchment Management Authority 4
By-law No. 4 Waterways Protection 2024 – Goulburn Broken Catchment Management Authority 4
Dairy Food Safety Victoria Determination of Licence Classes and Fees for Dairy Businesses 2
Ministerial Order 1468 – Order Amending Ministerial Order No. 1125 – Procedures for Suspension and Expulsion of Students in Government Schools 13 Vol. A
Ministerial Order No. 1452 – Fees for Services Provided to Children in Government Early Learning Centres 1
Notice of Declaration of a kind of insurance that is excluded from the definition of business insurance under section 3(2A) 6
Practitioner Remuneration Order 2025 6

Appendix 2
Committee Comments classified by Terms of Reference

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
Bail Further Amendment Bill 2025	10, 11
Casino and Gambling Legislation Amendment Bill 2025	12
Constitution Amendment (Abortion) Bill 2024	2, 4
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024	1, 4
Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025	17
Corrections Legislation Amendment Bill 2025	7, 9
Crimes Amendment (Performance Crime) Bill 2025	9
Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025	11, 13 Vol. A
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024 [House Amendments]	3, 6
Justice Legislation Amendment (Committals) Bill 2024	15 of 2024, 1
Justice Legislation Amendment (Miscellaneous) Bill 2025	6, 8
Justice Legislation Amendment (Police and Other Matters) Bill 2025	16
Labour Hire Legislation Amendment (Licensing) Bill 2025	14
Mineral Resources (Sustainable Development) Amendment (Financial Assurance) Bill 2025	15
Planning Amendment (Better Decisions Made Faster) Bill 2025	15
Safer Protest with a Registration System and a Ban on Face Coverings Bill 2025	12
State Taxation Acts Amendment Bill 2025	8, 9
Tobacco Amendment (Tobacco Retailer and Wholesaler Licensing Scheme) Bill 2024	16 of 2024, 1
Victorian Civil and Administrative Tribunal Amendment (Reporting of Guardianship and Administration Proceedings) Bill 2025	11
Voluntary Assisted Dying Amendment (Equity and Access) Bill 2024	4
Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025	12, 17

(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers

Charter of Human Rights and Responsibilities Amendment (Right to Housing) Bill 2025	9, 10

(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers (continued)

Labour Hire Legislation Amendment (Licensing) Bill 2025 14
National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025 9, 12

(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers (continued)

Planning Amendment (Better Decisions Made Faster) Bill 2025 15
Transport Legislation Amendment Bill 2025 14

(iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions

Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025 [House Amendments] 6, 8
Planning Amendment (Better Decisions Made Faster) Bill 2025 15

(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*

Wage Theft Amendment Bill 2025 6, 11

(vi) inappropriately delegates legislative power

Building Legislation Amendment (Fairer Payments on Jobsites and Other Matters) Bill 2025 13 Vol B
Financial Management Legislation Amendment Bill 2025 8, 10
Local Jobs First Amendment Bill 2025 9, 17
National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025 9, 12
Planning Amendment (Better Decisions Made Faster) Bill 2025 15
Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025 16
Statewide Treaty Bill 2025 13 Vol A, 14
Wage Theft Amendment Bill 2025 6, 11
Wrongs Amendment (Vicarious Liability) Bill 2025 6, 8

(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
Australian Grands Prix Amendment Bill 2025 11
Bail Further Amendment Bill 2025 10, 11
Casino and Gambling Legislation Amendment Bill 2025 12
Constitution Amendment (Abortion) Bill 2024 2, 4
Consumer and Planning Legislation Amendment (Housing Statement Reform) Bill 2024 1, 4
Consumer Legislation Amendment Bill 2025 14
Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025 17
Corrections Legislation Amendment Bill 2025 7, 9
Crimes Amendment (Performance Crime) Bill 2025 9
Crimes Amendment (Retail, Fast Food, Hospitality, and Transport Worker Harm) Bill 2025 16

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

Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025 11, 13 Vol. A
Domestic Building Contracts Amendment Bill 2025 9, 11
Drugs, Poisons and Controlled Substances (Medication Administration in Residential Aged Care) Bill 2025 10, 12
Energy and Land Legislation Amendment (Energy Safety) Act 2025 [House Amendments] 7
Family Violence Protection Amendment Act 2025 5, 6
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025 [House Amendments] 6, 8
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024 [House Amendments] 3, 6
Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Bill 2025 16
Justice Legislation Amendment (Miscellaneous) Bill 2025 [House Amendments] 8, 12
Justice Legislation Amendment (Miscellaneous) Bill 2025 6, 8
Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025 17
Justice Legislation Further Amendment (Miscellaneous) Bill 2025 17
Labour Hire Legislation Amendment (Licensing) Bill 2025 14
Local Jobs First Amendment Bill 2025 9, 17
Mineral Resources (Sustainable Development) Amendment (Financial Assurance) Bill 2025 15
National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025 9, 12
Planning Amendment (Better Decisions Made Faster) Bill 2025 15
Protecting Public Assets and Services Bill 2024 13 of 2024
Roads and Road Safety Legislation Amendment Bill 2024 [House Amendments] 15 of 2024, 1
Safer Protest with a Registration System and a Ban on Face Coverings Bill 2025 12
Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025 16
State Taxation Acts Amendment Bill 2025 8, 9
State Taxation Further Amendment Bill 2024 15 of 2024
Statewide Treaty Bill 2025 13 Vol A, 14
Terrorism (Community Protection) and Control of Weapons Amendment Act 2025 5, 7
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024 1, 3
Victorian Civil and Administrative Tribunal Amendment (Reporting of Guardianship and Administration Proceedings) Bill 2025 11
Victorian Early Childhood Regulatory Authority Bill 2025 15, 17
Victorian Early Childhood Regulatory Authority Act 2025 17
Voluntary Assisted Dying Amendment (Equity and Access) Bill 2024 4
Voluntary Assisted Dying Amendment Bill 2025 14
Wage Theft Amendment Bill 2025 6, 11
Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025 12, 17
Wrongs Amendment (Vicarious Liability) Bill 2025 6, 8

Section 17(b)

(i), (ii) and (iii) repeals, alters or varies the jurisdiction of the Supreme Court

Local Jobs First Amendment Bill 2025 9, 17

State Taxation Further Amendment Bill 2025 14

Appendix 3
Table of Ministerial Correspondence

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.

Bill Title	**Minister/ Member**	**Date of Committee Letter / *Minister's Response***	**Alert Digest No. Issue raised / *Response Published***
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 *04-03-25*	1 of 2025 *4 of 2025*
Terrorism (Community Protection) and Control of Weapons Amendment Bill 2024	Police	05-02-25 *27-02-25*	1 of 2025 *3 of 2025*
Constitution Amendment (Abortion) Bill 2024	Sarah Mansfield MP	18-02-25 *07-03-25*	2 of 2025 *4 of 2025*
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Bill 2024 [House Amendments]	Attorney-General	05-03-25 *15-04-25*	3 of 2025 *6 of 2025*
Voluntary Assisted Dying Amendment (Equity and Access) Bill 2024	Sarah Mansfield MP	19-03-25	4 of 2025
Family Violence Protection Amendment Act 2025	Attorney-General	01-04-25 *15-04-25*	5 of 2025 *6 of 2025*

Bill Title	**Minister/ Member**	**Date of Committee Letter / *Minister's Response***	**Alert Digest No. Issue raised / *Response Published***
Terrorism (Community Protection) and Control of Weapons Amendment Act 2025	Police	01-04-25 *25-05-25*	5 of 2025 *7 of 2025*
Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025 [House Amendments]	Attorney-General	13-05-25 *01-06-25*	6 of 2025 *8 of 2025*
Justice Legislation Amendment (Miscellaneous) Bill 2025	Attorney-General	13-05-25 *29-05-25*	6 of 2025 *8 of 2025*
Wage Theft Amendment Bill 2025	Industrial Relations	13-05-25 *14-08-25*	6 of 2025 *11 of 2025*
Wrongs Amendment (Vicarious Liability) Bill 2025	Rachel Payne MP	13-05-25 *03-06-25*	6 of 2025 *8 of 2025*
Corrections Legislation Amendment Bill 2025	Corrections	28-05-25 *02-07-25*	7 of 2025 *9 of 2025*
Energy and Land Legislation Amendment (Energy Safety) Act 2025 [House Amendments]	Energy and Resources	28-05-25	7 of 2025
Financial Management Legislation Amendment Bill 2025	Finance	17-06-25 *02-08-25*	8 of 2025 *10 of 2025*
State Taxation Acts Amendment Bill 2025	Treasurer	17-06-25 *18-07-25*	8 of 2025 *9 of 2025*
Justice Legislation Amendment (Miscellaneous) Bill 2025 [House Amendments]	Attorney-General	17-06-25 *04-09-25*	8 of 2025 *12 of 2025*
Charter of Human Rights and Responsibilities Amendment (Right to Housing) Bill 2025	Anasina Gray-Barberio MP	31-07-25 *06-08-25*	9 of 2025 *10 of 2025*
Crimes Amendment (Performance Crime) Bill 2025	Attorney-General	31-07-25	9 of 2025
Domestic Building Contracts Amendment Bill 2025	Consumer Affairs	31-07-25 *20-08-25*	9 of 2025 *11 of 2025*
Local Jobs First Amendment Bill 2025	Economic Growth and Jobs	31-07-25 *14-11-25*	9 of 2025 *17 of 2025*
National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025	Energy and Resources	31-07-25 *26-08-25*	9 of 2025 *12 of 2025*
Bail Further Amendment Bill 2025	Attorney-General	12-08-25 *24-08-25*	10 of 2025 *11 of 2025*
Drugs, Poisons and Controlled Substances (Medication Administration in Residential Aged Care) Bill 2025	Ageing	12-08-25 *25-08-25*	10 of 2025 *12 of 2025*

Bill Title	**Minister/ Member**	**Date of Committee Letter / *Minister's Response***	**Alert Digest No. Issue raised / *Response Published***
Australian Grands Prix Amendment Bill 2025	Tourism, Sport and Major Events	27-08-25	11 of 2025
Domestic Animals Amendment (Rehoming Cats and Dogs and Other Matters) Bill 2025	Agriculture	27-08-25 *16-09-25*	11 of 2025 *13 of 2025 Volume A*
Victorian Civil and Administrative Tribunal Amendment (Reporting of Guardianship and Administration Proceedings) Bill 2025	Anasina Gray-Barberio MP	27-08-25	11 of 2025
Casino and Gambling Legislation Amendment Bill 2025	Casino, Gaming and Liquor Regulation	11-09-25	12 of 2025
Safer Protest with a Registration System and a Ban on Face Coverings Bill 2025	Hon David Davis MP	11-09-25	12 of 2025
Worker Screening Amendment (Strengthening the Working with Children Check) Act 2025	Attorney-General	11-09-25 *30-11-25*	12 of 2025 *17 of 2025*
Building Legislation Amendment (Fairer Payments on Jobsites and Other Matters) Bill 2025	Housing and Building	20-10-25	13 of 2025, Volume B
Statewide Treaty Bill 2025	Premier	20-10-25 *26-10-25*	13 of 2025, Volume A *14 of 2025*
	Treaty and First Peoples	20-10-25	13 of 2025, Volume A
Consumer Legislation Amendment Bill 2025	Consumer Affairs	28-10-25	14 of 2025
Labour Hire Legislation Amendment (Licensing) Bill 2025	Industrial Relations	28-10-25	14 of 2025
State Taxation Further Amendment Bill 2025	Treasurer	28-10-25	14 of 2025
Transport Legislation Amendment Bill 2025	Public and Active Transport	28-10-25	14 of 2025
Voluntary Assisted Dying Amendment Bill 2025	Health	28-10-25	14 of 2025
Mineral Resources (Sustainable Development) Amendment (Financial Assurance) Bill 2025	Energy and Resources	13-11-25	15 of 2025
Planning Amendment (Better Decisions Made Faster) Bill 2025	Planning	13-11-25	15 of 2025
Victorian Early Childhood Regulatory Authority Bill 2025	Children	13-11-25 *20-11-25*	15 of 2025 *17 of 2025*

Crimes Amendment (Retail, Fast Food, Hospitality, and Transport Worker Harm) Bill 2025	Attorney-General	20-11-25	16 of 2025
Justice Legislation Amendment (Family Violence, Stalking and Other Matters) Bill 2025	Attorney-General	20-11-25	16 of 2025
Justice Legislation Amendment (Police and Other Matters) Bill 2025	Police	20-11-25	16 of 2025
Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025	Education	20-11-25	16 of 2025
Control of Weapons Amendment (Establishing Jack's Law, Use of Electronic Metal Detection Devices) Bill 2025	Evan Mulholland MP		17 of 2025
Justice Legislation Amendment (Vicarious Liability for Child Abuse) Bill 2025	Attorney-General		17 of 2025
Justice Legislation Further Amendment (Miscellaneous) Bill 2025	Attorney-General		17 of 2025
Victorian Early Childhood Regulatory Authority Act 2025	Children		17 of 2025