Scrutiny of Acts and Regulations Committee

Alert Digest No. 14 of 2025

October 2025

On the following Bills

Consumer Legislation Amendment Bill 2025

Labour Hire Legislation Amendment (Licensing) Bill 2025

State Taxation Further Amendment Bill 2025

Statewide Treaty Bill 2025

Transport Legislation Amendment Bill 2025

Voluntary Assisted Dying Amendment Bill 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

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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.

Consumer Legislation Amendment Bill 2025

Member	Hon Nick Staikos MP	**Introduction Date**	15 October 2025
Portfolio	Consumer Affairs	**Second Reading Date**	16 October 2025

Summary

The Bill amends the *Residential Tenancies Act* 1996 (RTA), the *Australian Consumer Law and Fair Trading Act* 2012 (ACLFT Act). The Bill:-

- Implements fuel price caps as part 2 of the Fair Fuel Plan;
- Establishes the Portable Rental Bond Scheme;
- Gives effect to further rental reforms to protect Victorian renters and improve compliance with rental minimum standards and;
- Make minor amendments to Housing Statement reforms relating to continuing professional development (CPD) requirements for property professionals, the *Estate Agents Act* 1980, the *Owners Corporations Act* 2006 and the *Conveyancers Act* 2006.

Part 2 – Amendment of the *Residential Tenancies Act* 1996 – Portable Rental Bond Scheme (Scheme)

Clause [2] is the commencement provision. **[2]** It inserts various definitions.[1] New Division 3A introduces a transfer of bond scheme. **[5]** Note the Second Reading Speech:-

> The Bill amends the *Residential Tenancies Act* 1997 (RT Act) to establish a voluntary Scheme. The key objective of the Bill is to establish the Scheme that will allow eligible renters to transfer an existing bond lodged with the Residential Tenancies Bond Authority (Authority) to another rental property, removing the cash flow crunch that so many Victorians experience…
>
> The Bill provides for the Scheme to be administered by the Secretary, Department of Government Services (Secretary), with the Victorian Government acting as a guarantor for transferred bonds and claims made against a bond. The Secretary will oversee eligibility requirements, direct the Authority to transfer bonds, and manage the Scheme's financial aspects. A renter can apply to transfer their bond once they have secured a new rental agreement and paid the first months' rent. To participate in the Scheme, renters will need to meet eligibility criteria, pay a small prescribed administrative fee, and pay any shortfall if the new bond is higher than their existing one. For the second rental provider, the process remains familiar. They will be notified of the bond transfer and will lodge a bond lodgement form with the Authority, just as they do now.

The Secretary's functions are to administer the Scheme including the transfer of bonds, the issue and publication of guidelines on the Department's Internet site and recover debts due to the State. (See new section 423A). New section 423C provides for the Secretary's delegation powers under that Division (other than the power of delegation) to any person employed under Part 3 of the *Public Administration Act* 2004.[2] **[5]** A renter may apply to the Secretary for a transfer of bond under new

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1 Note RDRV (Rental Dispute Resolution Victoria) proceeding has the same meaning as it has in section 3 of the *Victorian Civil and Administrative Tribunal Act* 1998.
RDRV proceeding means a proceeding in relation to an application to the Tribunal under the *Residential Tenancies Act* 1997 to be dealt with by ADR under Division 5A of Part 4.

2 *Public Administration Act* 2004 – Part 3 – Public service employment.

section 423F. The Secretary may direct the transfer of the bond from the Authority in relation to a first residential agreement to it in relation to the second residential agreement if satisfied of various eligibility matters.[3] A bond lodgement form must be signed and completed. Application fees may be refunded in specified circumstances. (See new section 423N). The Secretary may direct payment of disputed bond claims.[4,5] The Secretary may offer payment plans to a renter who owes a debt to the State. The Secretary may write off a part or the whole of the debt.

New section 423Z provides the Secretary may recover payment of bond claim as a debt due to the State and is recoverable by the Secretary in a court of competent jurisdiction. The Secretary may refer a debt due to the State by a renter to a debt collection agency. New section 423ZD provides the Minister must cause an independent review of the Scheme no earlier than 12 months after it comes into operation and no later than 3 years after it comes into operation. A written report must be tabled in the Parliament. **[5]**

Any fees or charges paid to the Secretary under new Division 3 must be paid into the Residential Bonds Investment Income Account. **[6]** The Governor in Council may make regulations with respect to fees and charges payable under new Division 3A. The Governor in Council may make regulations with respect to the administrative process, manner and conduct of recovery by the Secretary of debts due to the State. This includes notices of debt, reminder notices, final reminder notices and notices of final demand. **[7]**

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[3] See new section 423G(2).

(2) For the purposes of subsection (1)(a)(ii), the specified eligibility requirements are that—

(a) the Authority holds an amount of bond in relation to a first residential rental agreement under which the applicant is a renter; and

(b) the applicant proposes that the bond is to be held by the Authority in relation to the second residential rental agreement; and

(c) no part of that bond was paid on behalf of the applicant by Homes Victoria or an agent of Homes Victoria; and

(d) the renter is the same person as the renter specified on the bond lodgement form for the amount of bond held in relation to the first residential rental agreement; and

(e) the bond is not subject to a claim under section 411; and

(f) the applicant has entered the second residential rental agreement but has not paid the bond under that agreement; and

(g) the applicant does not owe a debt to the State under this Division; and

(h) any other prescribed requirements are met by the applicant.

[4] See the legislative note to 423Q. See sections 419A and 420 of the *Residential Tenancies Act* 1977.

Part 10 makes general provision for Bonds and the Residential Tenancies Bond Authority. Section 419A provides a person with interest in a claim for bond may apply to the VCAT for a bond repayment order. Section 420 provides the Tribunal must determine any applications made to it under section 419A.

Note the Explanatory memorandum:- 'Section 419A of the Act provides that a person with interest in a claim for bond may apply to the Tribunal for an order requiring the Authority to repay the bond. Section 420A of the Act allows the Tribunal to make orders to apportion liability and exclude a portion of bond paid by the renter who is a victim of family violence or personal violence. Sections 419A and 420A and new section 423Q provides a framework under which a renter who experiences family violence or personal violence and has transferred their bond under the scheme may apply to the Tribunal under section 420A to have their portion of the bond excluded from the bond claim and apportion liability.'

[5] Note new section 423Z(5) and (6):

(5) Any debt recovery action taken under subsection (3) or (4) must not be taken—

(a) within 8 weeks after the renter receives a notice under section 423R(1) in relation to the debt; or

(b) in the case of a debt to which a payment plan applies, before the renter has failed to comply with the terms of the payment plan.

(6) A renter who owes a debt referred to in subsection (1) must pay the prescribed fee (if any) to the Secretary for any debt recovery action taken under—

(a) subsection (3); or

(b) a written direction under subsection (4).

It inserts a definition of 'bond claim evidence'.[6] **[9,10,11]** Note the Second Reading Speech:-

> The Bill introduces reforms that will require rental providers or their agents to provide supporting evidence to a renter before they can make any claims on the bond. Supporting evidence includes invoices, receipts, quotes or any other prescribed evidence and must be provided to a renter 3 days before a bond claim is made. To further discourage exaggerated bond claims the Bill introduces an offence with penalties for a rental provider or their agent to make an application to VCAT without supporting documentary evidence, or where the supporting documentary evidence conflicts with a statement in a condition report.

It updates various definitions[7] in relation to minimum energy efficiency standards. **[15]** It inserts new section 65C to 65F. Rental providers must keep records relating to compliance with rental minimum standards. Guidance about records sufficient to demonstrate compliance must be published in the Government Gazette and on an Internet site maintained by the Director. Relevant records must be produced at the Director's request. It sets out the residential renter provider's duty to comply with safety-related repairs and maintenance requirements if the rental agreement does not contain prescribed terms under the RTA.[8] **[17]** It introduces a requirement for rental providers to conduct gas safety checks prior to commencing draughtproofing work. **[18]** It inserts new section 142BAA and record keeping requirements for rooming house operators to demonstrate compliance with standards for rooming houses.[9] **[19]** It contains transitional provisions. **[20]** It makes minor other amendments. **[22]**

Part 3 – Amendment of the *Australian Consumer Law and Fair Trading Act* 2012 – Phase 2 – Fair fuel plan

It amends the ACLFT Act.[10] It inserts new Part 5.3 to introduce a fuel price reporting scheme for fuel retailers. **[23]** It insert various definitions. This includes 'biodiesel', 'fuel pump display' etc. New section 106B provides the fuel retailers must provide information to the Director and update information. It makes provision for fuel price reporting in new Division 3. There must be notification to the Director of changes in fuel price. Fuel retailers may decrease normal fuel prices. It amends the functions of the Director to collect and publish information relating to prices at which fuel is offered for sale, including but not limited to normal fuel prices, maximum fuel prices and information relating

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6 An application must not be made to the Tribunal without accompanying 'bond claim evidence'. This is an offence provision punishable by a penalty of—

25 penalty units in the case of a natural person;

125 penalty units in the case of a body corporate.

7 This includes 'licensed gasfitter', 'open-flued gas appliance' etc.

8 Eg: See subsection (1B) If a residential rental agreement does not contain a term prescribed under section 27C(2) and the rented premises contains any appliances, fixtures or fittings provided by the residential rental provider which use or supply gas, the residential rental provider must—

(a) ensure a gas safety check of all gas installations and fittings is conducted every 2 years by a licensed gasfitter or a registered gasfitter; and

(b) at the request of the renter, provide the renter with the date of the most recent gas safety check in writing; and

(c) if a gas safety check has not been conducted within the last 2 years at the time the renter first occupies the rented premises, arrange for a gas safety check to be conducted as soon as practicable.

9 Note the Explanatory memorandum:- 'The circumstances in which a rooming house operator does not need to undertake work to comply with the standards are set out in the Residential Tenancies (Rooming House Standards) Regulations 2023 in relation to each standard for rooming houses.'

10 The Committee notes by way of additional information that SR No.74 of 2025 Australian Consumer Law and Fair Trading (Code of Practice for Fuel Price Reporting) Regulations (Regulations) were made by the Governor in Council and tabled in the Legislative Assembly and Legislative Council on 12 August 2025. The Regulations were made pursuant to section 232 and Part 6.3 of the *Australian Consumer Law and Fair Trading Act* 2012 and prescribe a code of practice to regulate the display of fuel prices on price boards at service stations and the reporting of fuel prices to the Director. Part 6.3 provides the Director may with the approval of the Minister prepare for submission to the Minister a draft code of practice. The Minister may recommend to the Governor in Council make regulations which prescribe a code of practice.

to fuel prices. **[24]** It amends regulation making powers to provide for matters for the purposes of new Part 5.3. **[25]**

Note the Second Reading Speech:-

> Phase 1 helps consumers' money go further through up-to-date price transparency for fuel. The Victorian Government implemented Phase 1 of the Fair Fuel Plan and launched the Servo Saver feature through Service Victoria in October 2025. All fuel retailers in Victoria are required to report their fuel prices, so that Victorians can access comprehensive, accurate and timely fuel price information… The introduction of this reform aligns Victoria with other states and territories who have had similar schemes in place for many years… Currently, Victorian motorists only find out that the price of petrol is going up when they pull into a service station and see that it's 10, 20 or 30 cents more a litre than it was when they drove past earlier that day…
>
> First, retailers are required to report, a day in advance, what their maximum fuel price will be. Retailers will have to report the maximum before 2pm, and that price will be published to the public at 4 pm. This means that Victorians will not just see the price of petrol now, but the maximum fuel price for the following day as well. It means that they can decide whether it will be cheaper to fill up when they go to do the groceries that night or if they stop to fill up on their way into work the next morning. The Bill will make sure that the maximum price gets locked in for 24 hours and it will be an offence to sell fuel above that price.
>
> Second, retailers will only be permitted to lower their fuel prices throughout the day. This means that once a day's maximum fuel price comes into force at 6 am, the price of fuel cannot go up for 24 hours. While the price cannot go up, there will be no limitations on a retailer's ability to lower their prices throughout the day – we do not want to lock in higher prices… To ensure retailers are appropriately incentivised to report the information consumers need to make informed purchasing choices. It will be an offence to fail to report price changes within 30 minutes. It will also be an offence for fuel retailers to fail to report if a type of fuel they sell has become temporarily unavailable.

Part 4 – Amendment of *Estate Agents Act* 1980 – Part 5 – Amendment of *Owners Corporations Act* 2006 – Part 6 – Amendment of *Conveyancers Act* 2006

Part 4 inserts new section 37M which provides for mandatory continuing professional development activities approved by the Business Licensing Authority which must be undertaken by estate agents and registered agents' representatives. **[26]** The Governor in Council may make regulations in relation to continuing professional development providers. **[27]** Part 5 provides for the approval of continuing professional development activities which owners corporation managers must undertake by natural persons and registered officers in effective control.[11] **[29]** The Governor in Council may make regulations in relation to the continuing professional development of providers. **[30]** Part 6 provides the same amendments in relation to continuing professional development activities for licensed conveyancers. **[32]** The Governor in Council may make regulations in relation to the professional development activity providers. **[33]**

Comments under the PCA

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

[11] A Note at the foot of new section 37M(5) refers to the establishment of the category of registered officer in effective control by the Consumer and Planning Legislation Amendment (Housing Statement Reform) Act 2025, which will take effect on the commencement of Division 1 of Part 4 of that Act.

Charter Issues

Fair hearing – Payment of bond to residential rental provider – Offence to apply to VCAT without certain documentary evidence

Summary: *The effect of clause 11 may be to make it an offence for a residential rental provider to apply to VCAT for payment of a bond unless the application is supported by certain documentary evidence. The Committee will write to the Minister seeking further information.*

Relevant provision

The Committee notes that clause 11 would insert a new sub-section 419A(1A) into the *Residential Tenancies Act* 1997 as follows:

> A residential rental provider or that person's agent must not make an application under subsection (1) for an order requiring the Authority to repay the bond to the residential rental provider unless—
>
> (a) the application is accompanied by bond claim evidence that supports the application; and
>
> (b) the bond claim evidence does conflict with a statement in a condition report.
>
> Penalty: 25 penalty units in the case of a natural person;
>
> 125 penalty units in the case of a body corporate.

Existing s. 419A permits a residential rental provider, renter or any other person who has an interest in a claim for a bond to apply to the Victorian Civil and Administrative Tribunal within 14 days after the residential rental agreement has terminated for an order requiring the Rental Bond Authority to pay to any party an amount that does not exceed the amount of the bond held by the Authority. 'Bond claim evidence' means a type of documentary evidence that is an invoice, a receipt, a quote, a photograph or any other prescribed evidence. A 'condition report' is a report in a prescribed form specifying the state of repair and general condition of rental premises on the day specified in the report. '25 penalty units' is approximately $5000.

The Second Reading Speech remarks:

> The RT Act already makes allowances for fair wear and tear in rental properties, but we know there is an emerging practice of some rental providers or their agents misrepresenting or exaggerating bond claims to keep more money in their pockets. The Bill introduces reforms that will require rental providers or their agents to provide supporting evidence to a renter before they can make any claims on the bond. Supporting evidence includes invoices, receipts, quotes or any other prescribed evidence and must be provided to a renter 3 days before a bond claim is made. To further discourage exaggerated bond claims the Bill introduces an offence with penalties for a rental provider or their agent to make an application to VCAT without supporting documentary evidence, or where the supporting documentary evidence conflicts with a statement in a condition report. These amendments seek to reset power imbalances between renters and rental providers and will enable renters to better challenge unfair bond claims.

The Explanatory Memorandum explains that clause 11:

> inserts after section 419A(1) of the Act new subsection (1A), which provides that a rental provider or their agent must not make an application to the Tribunal for an order requiring the Authority to repay a bond to the residential rental provider unless the application is accompanied by bond claim evidence which supports the application and does not conflict with a statement in a condition report.

Clause 10, which requires a residential rental provider to give bond claim evidence that supports a claim to each renter at least 3 days before making a claim to the Rental Bond Authority for repayment of the bond to the provider, provides that the evidence 'must not conflict with a statement in a condition report'.

The Committee observes that the effect of clause 11 may be to make it an offence for a residential rental provider (or their agent) to apply to VCAT for payment of a bond unless the application is supported by certain documentary evidence (of a particular type and bearing a particular relationship with statements in a condition report.)

Charter analysis

The Statement of Compatibility remarks:[12]

> Clause 9 of the Bill engages the right to privacy by inserting section 411(1A) into the RT Act to provide that where a residential tenant provider seeks to make a claim for rental bond, that person or their agent must provide bond claim evidence to a renter to support a claim at least 7 days before the claim is made. Clause 8 of the Bill inserts the definition of 'bond claim evidence' into section 3(1) of the RT Act to include an invoice; a receipt; a quote; a photograph; or any other prescribed evidence. The purpose of this clause of the Bill is to ensure that landlords seeking payment of bond money have sufficient up-front evidence in making any claim to a tenant's bond money.
>
> To the extent that clause 9 of the Bill engages the right to privacy by requiring the provision of information that may be of a personal or private nature, I consider that any interference with the right to privacy and reputation will be neither unlawful nor arbitrary. These amendments are reasonable as the information to be disclosed to a renter is restricted to an invoice, receipt, quote, photograph or evidence prescribed in regulations and the purpose of the documentary evidence is to substantiate and justify the bond claim amount. The use of this information is limited to supporting a bond claim or an application to the Tribunal under clause 10 of the Bill. The Bill engages powers, the scope of which are clearly defined and exercisable in circumstances set out in the *Residential Tenancies Act* 1997, and are required to substantiate the relevant claim, or to enable the Authority to discharge their statutory duties in relation to the bond lodgement. For these reasons, I am of the opinion that these provisions are compatible with the right in section 13 of the Charter.

The Committee notes that the Statement of Compatibility may not expressly discuss clause 11 or its compatibility with the right to a fair hearing. The Committee observes that, to the extent that clause 11 makes it an offence for a residential rental provider to make an application to VCAT in some circumstances, it may engage the Charter right of parties to a civil proceeding to have that proceeding determined after a fair hearing.[13]

The Committee also observes that the meaning of clause 11's term 'conflict with a statement in a condition report' may be unclear in some circumstances.[14] Existing ss. 35, 35A & 36 of the *Residential Tenancies Act* 1997 provide that:

- a condition report specifies a state of repair or general condition on a day specified in the agreement, and serves as notice to the residential rental provider of defects or outstanding repairs.
- a condition report may be initially written by either the residential rental provider or a renter, may or may not be signed by both parties, and may be completed (in the renter's presence or not) by the residential rental provider within 10 days of the end of the residential rental agreement.

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12 The Committee notes that the new definitions are inserted by clause 9, the new requirement for claims to the Rental Bond Authority is inserted by clause 10 (and requires that the evidence be provided 3 days before the claim) and that applications to VCAT are subject to a limitation introduced by clause 11.

13 Charter s. 24(1).

14 For example: an invoice for cleaning curtains that a condition report written by the renter and not signed by the residential rental provider described as dirty; a photo showing damaged carpet that a condition report completed by the residential rental provider described as undamaged but where the damage was found after furniture was moved; or a quote for repairs to a spa that an initial condition report described as damaged, but that the landlord claims was further damaged by a renter.

- a statement in a condition report may be written by either party or (on application) by VCAT and may (or may not be) be disagreed with by either party.

Existing s. 36 provides that a statement in a condition report that is signed by both the residential rental provider and the renter is conclusive evidence of the state of repair and general condition of the rented premises on the day specified, unless a state of repair or general condition could not be reasonably discovered on a reasonable inspection or one party disagrees with a statement made by the other party.

Relevant comparisons

The Committee notes that existing Victorian provisions permit VCAT to, at any time (and on application or on its own initiative), make an order summarily dismissing or striking out all, or any part, of a proceeding that VCAT's opinion is frivolous, vexatious, misconceived, lacking in substance or otherwise an abuse of process, and ordering the applicant to pay to any other party an amount to compensate that party for any costs, expenses, loss, inconvenience and embarrassment resulting from the proceeding.[15]

The Committee also notes that, in relation to other Australian jurisdictions that require particular evidence for a claim for payment of a rental bond:

- in New South Wales, it is an offence to contravene, without a reasonable excuse, a requirement that a landlord who makes a claim for payment of a rental bond without the tenant's consent must give the tenant a copy of a completed condition report about the condition of the rental premises at the end of the tenancy and copies of any estimates, quotes, invoices or receipts for work with which the rental bond is claimed within 7 days of the claim being made.[16]
- in Queensland, it is an offence for a lessor who has applied for the payment of a rental bond to the lessor to not give a tenant evidence supporting the claim on all or part of a rental bond within 14 days of the application being made.[17]
- in Tasmania, it is an offence for a party to a dispute to concerning a security deposit to fail to comply with a requirement from the Residential Tenancy Commissioner to provide the Commissioner with information relevant to the dispute.[18]

The Committee observes that none of these jurisdictions make it an offence to apply to a tribunal without such evidence or specify how such evidence must relate to a condition report.

Conclusion

The Committee will write to the Minister seeking further information as to:

- **whether or not clause 11's requirement that the bond claim evidence 'does conflict with a statement in a condition report' is a typographical error and should be corrected to 'does not conflict with a statement in a condition report'**
- **the meaning of clause 11's term 'conflict with a statement in a condition report'**
- **whether or not clause 11 is compatible with the Charter right of a residential rental provider to have a proceeding for payment of a rental bond determined after a fair hearing**

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15 *Victorian Civil and Administrative Tribunal Act 1998*, s. 75 (and see also ss. 78, 79, 109, 136 & 137.)

16 *Residential Tenancies Act 2010* (NSW), s. 165.

17 *Residential Tenancies and Rooming Accommodation Act 2008* (Qld), s. 136AA.

18 *Residential Tenancy Act 1997* (Tas), s. 29F (and see also sub-s. 29G(4)).

Labour Hire Legislation Amendment (Licensing) Bill 2025

Member	Hon Jaclyn Symes MP	**Introduction Date**	14 October 2025
Portfolio	Industrial Relations	**Second Reading Date**	15 October 2025

Summary

The Labour Hire Legislation Amendment (Licensing) Bill 2025 (the Bill) amends the *Labour Hire Licensing Act 2018* (the LHL Act) and the *Workforce Inspectorate Victoria Act 2020* (the WIV Act).[19] It implements the Victorian Government's response to recommendations 3 to 6 of the *Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions*, led by Mr Greg Wilson (the Wilson Review).

Part 1 of the Bill contains preliminary provisions. Clause **[1]** sets out the purposes of the Bill. Clause **[2]** is the commencement provision. The amendments come into operation on a day to be proclaimed, but no later than 1 October 2026.

Part 2 – Amendment of LHL Act

Part 2 of the Bill amends the LHL Act, which establishes a licensing and regulatory scheme for the labour hire services industry.[20] The LHL Act prohibits a person from providing labour hire services without a licence.

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19 Note that the *Wage Theft Act Amendment Act* 2025, which commences on a day or days to be proclaimed but no later than 2 April 2026, will change the title of the *Wage Theft Act* 2020 to the *Workforce Inspectorate Victoria Act* 2020.

20 The Wilson Review, to which the present Bill responds, focused on 'various government-funded construction projects', noting:

> 'While this term can relate to a wide range of construction led by government bodies to deliver projects in areas such as education, health and housing, it appears the bulk of the issues raised relate to large transport projects … They are delivered by thousands of workers, within multiple layers of contractor and sub-contractors, and there is a mix of employees, consultants, owner-operators and workers engaged through labour hire on each project at any time.': *Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions* [Wilson Review], Final Report, November 2024 <https://www.vic.gov.au/sites/default/files/2024-12/Final-Report-Formal-Review-into-Victorian-Governent-Bodies%27-Engagement-with-Construction.pdf>

However, labour hire services operate broadly across many industries, not only construction. The *Labour Hire Licensing Act* 2018 (Vic) applies across all industries.

Note the *Victorian Inquiry into the Labour Hire Industry and Insecure Work* in 2016*,* conducted by Professor Anthony Forsyth:

> 'The labour hire industry has developed over the last 20-30 years to become a significant employer of Victorian workers and a major contributor to the Victorian economy. Labour hire is present in almost all Victorian industries; Australia-wide data indicates that it is used most extensively in administrative and support services, mining and manufacturing.': *Victorian Inquiry into the Labour Hire Industry and Insecure Work* [Forsyth Inquiry], Final Report, August 2016 <https://oia.pmc.gov.au/sites/default/files/posts/2023/09/3%20Victorian%20inquiry%20into%20the%20labour%20hire%20industry%20and%20insecure%20work%20-%20Report.pdf>

Note the Labour Hire Licensing Bill 2017 Second Reading Speech:

> 'The labour hire licensing system that we are introducing will apply across all industries. Whilst much attention has been given to unscrupulous operators in the horticultural, cleaning and meat sectors, it is apparent that there are problems across many other industries as well.': Legislative Assembly, *Hansard*, 14 December 2017 <https://hansard.parliament.vic.gov.au/images/stories/daily-hansard/Assembly_2017/Assembly_Daily_Extract_Thursday_14_December_2017_from_Book_17.pdf >

There are some circumstances which are taken to be labour hire under the *Labour Hire Licensing Regulations 2018* (Vic). 'Broadly speaking these include where a business supplies workers to work: as a cleaner in a commercial premises; in the horticultural industry, performing certain activities; in a meat manufacturing or processing establishment, performing certain activities; or in a poultry processing establishment, performing certain activities': Labour Hire Authority, Key Industries, Web Page last updated 25 August 2025 <https://www.labourhireauthority.vic.gov.au/provider/key-industries/>.

Clause **[29]** provides that these amendments will apply in relation to an application for the issue or renewal of a licence irrespective of whether the application is made before, on or after the commencement of the amendments. **(See PCA Comments)**

Definition of 'provides labour hire services'

The Bill substitutes a new definition of 'provides labour hire services' in section 7 and 8 of the LHL Act. Clause **[4]** substitutes section 7, which is the general definition. Under new section 7(1), a person will be a provider of labour hire services where:

- in the course of conducting a business, they enter into an arrangement with another person;
- the character of that arrangement is (wholly or principally) the supply of labour by the provider (directly or indirectly) to another person; and
- that labour is performed by individuals who are workers (for the provider or for another provider) within the meaning of section 9(1).[21]

The Second Reading Speech notes this amended definition 'focuses on the character of the arrangement itself (being the supply of labour) rather than the business structure or requirement for workers to be integrated into a host business.'

Clause **[5]** substitutes section 8, which sets out the definition of 'provides labour services' in the specific context of a recruitment or placement service under section 8(1) and a contractor management service under section 8(2). It makes substantially the same amendments to section 8(1)-(2) as clause **[4]** makes to section 7(1) to focus on the character of the arrangement between the provider and another

[21] Section 9(1) of the LHLA is set out:

9 Meaning of *worker*

(1) An individual is a *worker*, for a provider, if—

(a) an arrangement is in force between the individual and the provider under which the provider supplies, or may supply, the individual to one or more other persons to perform work; and

(b) the provider is obliged to pay the individual (in whole or part) for the performance of the work by the individual, whether directly or indirectly through one or more intermediaries.

person.[22,23]

New sections 7(2) and 8(3) set out matters that a decision-maker may have regard to in determining the character of the arrangement under section 7(1) and section 8(1)-(2), respectively. These matters are: the terms of the arrangement between the provider and the other person; the totality of the arrangement between the provider and the other person; and any prescribed matter. **[4,5]**

New sections 7(3) and 8(4) state that the regulations may prescribe circumstances in which a person is taken to provide labour hire services for the purposes of section 7 and section 8, respectively. **[4,5]**

Licensing System

A person, being either a natural person or a corporation, may apply to the Labour Hire Licensing Authority (the Authority)[24] for a licence pursuant to section 17 or renewal of a licence pursuant to section 28 of Part 3 of the LHL Act.

The Bill amends section 17 to require that an application for a licence must include, along with the existing specified matters, a declaration of financial viability, a declaration of compliance with the laws specified in new section 23(1A), and an acknowledgement that the Authority may require further

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[22] New section 8(1) and 8(2) are set out:

8 Meaning of *provides labour hire services*— certain recruitment and placement services and contractor management services

(1) A person (a *provider*) *provides labour hire services* if—

(a) in the course of conducting a business of providing recruitment or placement services, the provider recruits one or more individuals for, or places one or more individuals with, another person that the provider has entered into an arrangement with; and

(b) the character of the arrangement is (wholly or principally) the recruitment of individuals to supply labour for, or placement of the individuals with, another person to perform labour for the other person, whether the labour is supplied—

(i) directly; or

(ii) indirectly through another person; and

(c) the labour is performed by individuals who are workers for the provider, or for another provider, within the meaning of section 9(2)(a); and

(d) the provider also procures or provides accommodation for the individuals for some or all of the period during which the individuals perform the labour.

(2) A person (a *provider*) *provides labour hire services* if—

(a) in the course of conducting a business of providing contractor management services, the provider recruits one or more individuals for, or places one or more individuals with, another person that the provider has entered into an arrangement with; and

(b) the character of the arrangement is (wholly or principally) the recruitment of the individuals to supply labour for, or placement of the individuals with, another person to perform labour for the other person, whether the labour is supplied—

(i) directly; or

(ii) indirectly through another person; and

(c) the labour is performed by individuals who are workers for the provider, or for another provider, within the meaning of section 9(2)(b).

[23] Section 9(2)(a) and 9(2)(b) of the LHLA are set out:

9 Meaning of *worker*

…

(2) An individual is a *worker*, for a provider, if an arrangement is in force between the individual and the provider under which the provider—

(a) recruits the individual for, or places the individual with, one or more other persons to perform work, being persons who are obliged to pay the individual (in whole or part) for the performance of the work by the individual, whether directly or indirectly through one or more intermediaries; or

(b) recruits the individual as an independent contractor for one or more other persons to perform work, and manages the contract performance by the independent contractor.

[24] The Authority is established under section 50 of the LHL Act. It is a body corporate (section 50(3)(a)) and is constituted by the Commissioner (section 50(2)) who has all the functions and powers of the Authority (section 60).

information under section 21 or 47 (see below). **[8]** An application for a licence must also include a declaration that each relevant person is a fit and proper person, the test for which is amended by clause **[10]** (see below).

It amends section 28 to require that an application for renewal of a licence must include, along with the prescribed information, an acknowledgment that the Authority may require further information under section 21 or 47. **[13] (See Practice Note Comment)**

It makes commensurate amendments to the processes for granting and renewing a licence. If an application meets the requirements for a licence set out in section 24, or the requirements for renewal of a licence set out in section 29, the Authority must grant or renew the licence. However, the Authority may also choose to grant or renew a licence if one or more of the requirements in section 24 or 29 are not met, provided it is satisfied this is appropriate in the circumstances. Otherwise, the Authority must refuse to grant or renew the licence.[25]

Clause **[12]** amends the list of requirements in section 24 (granting a licence) to include:

- amendments to section 24(1)(f) to the effect that the Authority is satisfied that each relevant person in relation to the application has complied, is complying and will continue to comply with this Act, the regulations and the laws specified in new section 23(1A) (see below);
- new section 24(1)(g)(ia), that if the Authority has required documents under section 21 or 47, the documents have been provided to the satisfaction of the Authority;[26]
- new section 24(1)(h), that the Authority is satisfied that the person who made the application is financially viable at the time of deciding the application.

Clause **[14]** amends the list of requirements in section 29 (renewing a licence) to include:

- in section 29(1)(c), that the application for renewal is accompanied by the prescribed acknowledgments (in addition to the prescribed declarations and consents);
- new section 29(1)(da), that the application for renewal is accompanied by a declaration of financial viability;
- new section 29(1)(db), that the application for renewal includes an acknowledgment that the Authority may require further information under section 21 or 47; **(See Practice Note Comment)**
- amendments to section 29(1)(f) to the effect that the Authority is satisfied that each relevant person in relation to the application for renewal has complied, is complying and will continue to comply with this Act, the regulations and the laws specified in new section 23(1A) (see below);
- new section 29(1)(g)(ia), that if the Authority has required documents under section 31 or 47, the documents have been provided to the satisfaction of the Authority;[27]
- new section 29(1)(h), that the Authority is satisfied that the person who made the application is financially viable at the time of deciding the application.

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25 Section 102 provides for review by the Victorian Civil and Administrative Tribunal (VCAT) of decisions of the Authority to grant, renew, vary, suspend or cancel a licence, impose a condition on a licence, or issue a notice to comply.

26 Current section 24(1)(g) already requires that if the Authority has required 'further information or consents', 'one or more statutory declarations' or 'access to premises' under section 21 or 47, the information, consent, statutory declaration or access has been provided to the satisfaction of the Authority.

27 Current section 29(1)(g) already requires that if the Authority has required 'further information or consents', 'one or more statutory declarations' or 'access to premises' under section 31 or 47, the information, consent, statutory declaration or access has been provided to the satisfaction of the Authority.

The list of requirements in section 24 and 29 also include that the Authority is satisfied that each relevant person in relation to the application is a fit and proper person at the time of deciding the application, which fit and proper person test is amended by clause **[10]** (see below).

The Authority also has the power to impose conditions on a licence under section 33, and to vary (or refuse to vary), suspend or cancel a licence under section 38, 39 and 40, respectively. The grounds for variation, suspension and cancellation of a licence are affected by the amendments to the fit and proper person test by clause **[10]** (see below), as well as by clauses **[17]**, **[18]** and **[19]** which update references in sections 38(6)(b), 39(1)(a)(iii) and 40(1)(c) from 'is compliant with legal obligations as described in section 23' to 'has complied, is complying and will continue to comply with the laws specified in section 23(1A)' (see below).

Licence holders have ongoing obligations with respect to the information provided to the Authority. They are required under section 43 and 44, which are civil penalty provisions, to notify the Authority within 30 days of any changes in the information provided to the Authority under Part 3 of the LHL Act, or any changes prescribed by the regulations that are of such significance that notification of the change would constitute grounds for the cancellation of the licence. They must also provide the Authority with certain information each reporting period (i.e., annually) pursuant to section 34 which clause **[16]** amends to include a declaration of financial viability.[28]

Further Information Under Section 21 or 47

The amendments made by the Bill will be subject to the existing powers of the Authority under section 21 and 47. These sections are not pecuniary penalty provisions (there is no penalty for non-compliance), nor are they subject to the operation of section 91 of Part 5 which is a limited abrogation of the privilege against self-incrimination. Section 21 empowers the Authority to require an applicant for a licence to give the Authority 'such further information in relation to the application as the Authority requires'. Section 47 applies more broadly:

> 47 Authority may conduct inquiries and require further information or consent to disclosure of information
>
> In considering an application for a licence, a variation or renewal of a licence, or in considering information provided under section 34 or changes notified under section 43 or 44, or doing any other thing under this Part in relation to an application or a licence, the Authority may—
>
> (a) conduct any inquiries that it thinks fit; and
>
> (b) require a relevant person in relation to the application or the licence, as the case requires, to do any of the following within a specified time—
>
> (i) provide further information including in relation to the turnover of the business;
>
> (ii) confirm the veracity of any information provided by the relevant person by means of a statutory declaration;
>
> (iii) provide any consent to disclosure of information that the Authority requires for the purpose of performing a check in respect of the relevant person, or in respect of any information included with the application, or in respect of the licence or otherwise, provided by the relevant person;
>
> (iv) provide access to premises at which the labour hire business to which the application or the licence relates will be carried on.

Note the Statement of Compatibility about the effect of section 21 and 47 with respect to the new declaration of financial viability in particular:

> The amendments require a licence application to include a declaration of financial viability. While financial information is not required as part of an application, the Authority may request further

[28] It also amends current section 34(1)(g) by substituting 23(1) for '23(1A)'.

> information on the applicant's financial viability if such information is necessary for, or relevant to, the determination of the application. This may include personal information …
>
> A licence applicant (or renewal applicant) is required to provide a declaration that they are financially viable, and may be required to provide evidence in support of their viability if requested by the Authority. This may include financial documents such as profit and loss statements, balance sheets, or bank statements. The Authority is a public authority under the Charter and will be required to exercise its powers to require additional information compatibly with the right to privacy.

Compliance with Laws Specified in Section 23(1A)

It is a requirement for the purpose of granting, renewing, varying, suspending or cancelling a licence that a person can or cannot declare or demonstrate their compliance with certain classes of laws specified in section 23(1) of the LHL Act. Clause **[11]** substitutes current section 23(1) for new section 23(1) and 23(1A). New section 23(1) requires an applicant for a licence or renewal of a licence who is conducting a business to declare not only that they comply, but that they have complied, are complying and will continue to comply with certain laws. New section 23(1A) expands the existing list of laws to include laws relating to: education and training; bankruptcy; competition, consumer protection and fair trading; corporations and corporate regulation; and security interests in personal property.

Fit and Proper Person Test

Clause **[10]** substitutes section 22 to amend the fit and proper person test under the legislation. The new factors the Authority must have regard to in determining whether a person is a fit and proper person for the purpose of granting, renewing, varying, suspending or cancelling a licence, include:

- the person's history of compliance, and capacity to comply, with the laws in new section 23(1A);
- whether the person previously had – or, in the case of a natural person, was an officer of a body corporate which at the time had – a licence cancelled or suspended (other than at the licence holder's request under section 41), or a licence on which conditions were imposed;
- within the preceding 10 years, whether the person was found guilty of an indictable offence (for which any conviction has not become a spent conviction), and the Authority considers the offence relevant to the person's suitability to provide labour hire services;
- within the preceding 5 years, whether the person or a body corporate of which the person was an officer was placed under external administration, receivership or controllership within 6 months of the person's departure from the body corporate;
- whether the person is, or has been, an insolvent under administration;
- whether the person is under the control of, or substantially influenced by, another person whom the Authority considers is not a fit and proper person;
- in the case of a natural person, the person's character including the person's honesty, integrity and professionalism;
- in the case of a natural person, whether the person is or has been disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001 (Cth)*;
- in the case of a natural person, whether the person is a member of a Part 5C organisation;[29]
- any other prescribed matters.

[29] Clause [10] inserts new section 22(3) to provide that 'member' and 'Part 5C organisation' have the same meaning as in section 3(1) of the *Criminal Organisation Control Act 2012*.

Factors that currently form part of the fit and proper person test but are not expressly included in the new test include:

- within the preceding 10 years, whether the person was found guilty of an offence involving fraud, dishonesty or drug trafficking that was punishable by 3 months or more imprisonment;
- within the preceding 5 years, whether the person was found to have contravened, or given an enforceable undertaking in respect of an alleged contravention of, a workplace law, a labour hire industry law or a minimum accommodation standard.

Clause **[10]** inserts new section 22(2) to provide that the Authority may have regard to any other matters that it considers relevant.

Power to Compel Information and Documents

Part 5 of the LHL Act sets out a framework for the appointment of inspectors and the enforcement of the labour hire licensing system. An inspector has existing power pursuant to section 67 to require a licence holder to produce documents relating to the business of providing labour hire services. The requirement must be issued by written notice with at least 14 days to comply. A licence holder who fails without reasonable excuse to comply will be subject to a maximum penalty of 150 penalty units for a natural person and 750 penalty units for a body corporate.

Clause **[24]** inserts new section 67A, which confers additional power on an inspector to first request, and then require, a document or information from a person (who need not be a licence holder), provided that:

- the document or information is reasonably required for the purposes of investigating, monitoring or enforcing compliance with the Act or regulations; and
- the inspector reasonably believes the information is known to the person or the document is in their possession or control.

The first request must be issued as a written notice, which must state that the person may refuse to produce the document or information. (The amendment is silent as to what other information the notice should include).

If the person does refuse, the inspector may then direct the person to produce the document or information. This direction must be issued as a written notice with a date, form and manner for compliance, and, if the person is a natural person, must inform the person that it is a reasonable excuse to refuse to give information if the giving of the information would tend to incriminate the person. **(See PCA Comments)** A person who refuses or fails without reasonable excuse to comply with new section 67A will be subject to a maximum penalty of 150 penalty units for a natural person and 750 penalty units for a body corporate.

Hinder or Obstruct Offences

Clause **[26]** extends section 88, which relates to offences perpetrated against an inspector, to also include offences perpetrated against the Commissioner or an employee of the Authority.[30] The Bill makes it an offence to:

- under new section 88(1)(ab), intentionally hinder or obstruct the Commissioner, or an employee of the Authority assisting the Commissioner, in the performance of the Commissioner's

[30] Clause [26] inserts new section 88(3), which provides that in this section 'employee' includes a person engaged by the Authority under section 53(2) and a person with whom the Authority has entered into an agreement or arrangement under section 53(3).

functions or the exercise of the Commissioner's powers under the Act or regulations or induce or attempt to induce another person to do so;

- under amended section 88(1)(b), intentionally conceal from the Commissioner or an employee of the Authority the location or existence of any other person or any plant, substance or other thing;
- under amended section 88(1)(c), intentionally prevent or attempt to prevent any other person from assisting the Commissioner or an employee of the Authority;
- under amended section 88(2), assault, directly or indirectly intimidate or threaten, or attempt to intimidate or threaten, the Commissioner or an employee of the Authority.

Offences are punishable by 75 penalty units for a natural person and 375 penalty units for a body corporate under section 88(1), and 240 penalty units or 2 years imprisonment or both for a natural person and 1200 penalty units for a body corporate under section 88(2). As these offences include the fault element of intention (or, in the case of common assault, recklessness), they are not offences of strict liability.

Information Disclosure

Section 103 prevents past or present Commissioners, Acting Commissioners and Authority staff from disclosing information concerning the affairs of any person—except in certain specified circumstances. One specified circumstance is where the information is disclosed 'in, or in connection with, the performance of a function or duty' under the Act.

Clause **[28]** inserts new section 103A, which confers additional power on the Commissioner to disclose any information relating to a labour hire provider or the labour hire industry, provided they are reasonably satisfied disclosure is in the public interest and the disclosure is to the Minister or to a government (department or agency) employee.[31] This power to disclose information under section 103A cannot be delegated. **[22]**

Publication of Information

The Authority has power to publish certain information under section 49 of the Act. Clause **[20]** substitutes section 49 to enable the Authority to publish more information in certain circumstances and in any manner the Authority considers appropriate.[32] New section 49(1)(a) provides that where a person withdraws their application for a licence or requests cancellation of their licence, the Authority may publish their name and business name.[33] **[20]** New section 49(1)(b) provides that in any case the Authority may publish:

- the name and business name of a person against whom the Authority has exercised, or is considering whether to exercise, a power in connection with investigating, monitoring or enforcing compliance;
- the particular power being exercised or considered;
- the contravention that the Authority has formed the view has occurred or is occurring;

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31 Note the Statement of Compatibility: 'Disclosure under new section 103A is limited to whether the Commissioner is satisfied that is it in the public interest and is limited to only certain persons who in turn are subject to existing information privacy obligations'.

32 Current section 49 enables the Authority to publish the specified information 'on an Internet site maintained by the Authority'.

33 Current section 49(a) enables the Authority to publish 'the name and business name of an applicant for a licence, if the application is refused or withdrawn'.

- in relation to conduct by a person who is not a licence holder—the matters the Authority was satisfied of before exercising that power;
- any other information about decisions made under Division 4 of Part 3 (grant, duration and renewal of licenses), Division 6 of Part 3 (conditions and notices to comply) or Division 7 of Part 3 (variations, suspensions and cancellations).

Clause **[20]** clarifies that publication of this information by the Authority must occur 'in, or in connection with, the performance of a function or duty' under the Act.[34] Note the Explanatory Memorandum:

> The language "in, or in connection with, the performance of a function or duty under this Act" is intended to make clear that the publication of information under section 49 is not prohibited by the secrecy provision in section 103(2), as the publication falls within the exception in section 103(3)(a)(ii) of the Act.

New section 49(2) expressly states, however, that new section 49(1) does not affect the operation of any <u>other</u> Act or law relating to information privacy or secrecy. **[20]** These other laws will continue to apply, meaning the Authority will be prevented from publishing information that is protected under them.

<u>Minor Technical Amendments</u>

The Bill also makes a number of minor, technical or consequential amendments, including for clarity and consistency in language throughout the LHL Act. **[6,7,9,11,15,16,18,21,23,25,26,27]**

Part 3 – Amendment of WIV Act

Clause **[30]** inserts new section 69A into the WIV Act for the purpose of preventing reprisals against persons who utilise its construction industry complaints referral function. It makes it an offence to cause or threaten detriment against a person on the basis of knowing or believing, reasonably or unreasonably, that they have utilised or are intending or considering whether to utilise this function—either by making a complaint, providing information about public construction, or participating in a process arising from any person's complaint. The maximum penalty is 1200 penalty units or 10 years imprisonment or both. As this offence includes the fault element of knowledge or belief, it is not a strict liability offence.

<u>Comments under the PCA</u>

Rights and freedoms – Privilege against self-incrimination – (section 17(a)(i), PCA)

Clause **[24]** of the Bill inserts new section 67A into the LHL Act:

> 67A Documents to be produced and information to be provided
>
> (1) An inspector, by written notice, may request a person to produce a document or provide information to the inspector if—
>
> (a) the inspector reasonably believes that—
>
> (i) the person is in possession or control of the document; or
>
> (ii) the information is known to the person; and

[34] Section 51 sets out the functions and powers of the Authority, which, among other things, include: to administer the scheme for granting licences under this Act and related matters; to promote, monitor and enforce compliance with this Act and the regulations; to investigate compliance with this Act and the Regulations; and, to maintain the Register. Section 3 states that the Register means the Register of Licensed Labour Hire Providers maintained under section 48.

(b) the document or information is reasonably required for the purposes of investigating, monitoring or enforcing compliance with this Act and the regulations.

(2) A notice under subsection (1) must state that the person may refuse to produce the document or provide the information.

(3) An inspector, by written notice, may direct a person who has refused to produce a document or provide information under subsection (1) to produce the document or provide the information to the inspector—

(a) in the form and manner specified in the notice; and

(b) before the date specified in the notice.

(4) A notice under subsection (3) directed to a natural person must inform the person that it is a reasonable excuse for the person to refuse or fail to give information if the giving of the information would tend to incriminate the person.

(5) A person to whom a notice under subsection (3) is given must not, without reasonable excuse, refuse or fail to comply with a direction in the notice.

Penalty: In the case of a natural person, 150 penalty units;

In the case of a body corporate, 750 penalty units.

As new section 67A is inserted into Part 5, it is subject to section 91 of Part 5. Section 91 provides that it is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing required under Part 5, if it would tend to incriminate them. However, since the protection would not apply to the production of documents (section 91(2)), it would allow a limited abrogation of the privilege against self-incrimination with respect to new section 67A. Note the Statement of Compatibility:

Right to protection against self-incrimination

Section 25(2)(k) of the Charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against themselves or to confess guilt. This right is at least as broad as the common law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid. At common law, the High Court has held that the protection accorded to pre-existing documents is considerably weaker than that accorded to oral testimony or to documents that are brought into existence to comply with a request for information. The compulsion to produce pre-existing documents that speak for themselves is in strong contrast to testimonial oral or written evidence that is brought into existence as a direct response to questions. Accordingly, any protection afforded to documentary material by the privilege is limited in scope and not as fundamental to the nature of the right as the protection against the requirement that verbal answers be provided.

The right in section 25(2)(k) of the Charter is relevant to new section 67A in light of the operation of existing section 91 in respect of new section 67A. Existing section 91 provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to do under Part 5, if the giving of the information or the doing of the thing would tend to incriminate the person. Under new section 67A(4) a notice under new section 67A(3) given to a natural person must inform the person that it is a reasonable excuse for the person to refuse or fail to give information if the giving of the information would incriminate the person.

Section 91 does not apply to the production of a document that the person is required to produce under the existing provisions in Part 5. New section 67A will be part of Part 5 of the LHL Act and so section 91 will operate in this way in respect of new section 67A.

Accordingly, section 91 is a limited abrogation of the privilege against self-incrimination. A document required to be produced under a provision in Part 5 may contain evidence that would tend to incriminate the person with respect to certain offences under the LHL Act and, as section 91 does not apply to such documents, such documents will need to be provided under new section 67A. However, section 100 (evidence given in proceedings for pecuniary penalty) will continue to apply in the same way that it applies to the existing provisions in the LHL Act. This means that new section 67A does not alter the

position that information produced in a proceeding for a pecuniary penalty order against a person for a contravention of a civil penalty provision, will not be admissible in subsequent criminal proceedings against that person on the basis of the same conduct (except in respect of the falsity of the evidence).

As has been previously discussed in relation to those existing provisions, the purpose of the abrogation in relation to documents is to facilitate compliance with the licencing scheme, and there is significant public interest in ensuring compliance by labour hire providers. There are no less restrictive means available to achieve the purpose of enabling inspectors to have access to relevant documents to facilitate and ensure compliance.

The Committee notes the limited abrogation of the privilege against self-incrimination in relation to new section 67A inserted by clause [24] of the Bill. The Committee notes the comments in the Statement of Compatibility.

Rights and freedoms – Retrospective operation – (section 17(a)(i), PCA)

Clause **[29]** inserts new section 121 into the LHL Act which contains transitional provisions for the amendments contained in Part 2 of the Bill. New section 121 is set out:

121 Transitional provision—*Labour Hire Legislation Amendment (Licensing) Act* 2025

The amendments made by Part 2 of the *Labour Hire Legislation Amendment (Licensing) Act* 2025 apply in relation to an application for the issue or renewal of a licence irrespective of whether the application is made before, on or after the commencement of that Part of that Act.

There is no information in the extrinsic materials accompanying the Bill about the general time period in which applications for the issue or renewal of a licence are received and considered by the Authority. It may be the case that an application for the issue or renewal of a licence is made before the commencement of the amendments and does not meet the new requirements set out in the Bill. New section 121 may have the effect that the amendments would operate retrospectively on such an application. If the application is made before but considered by the Authority after the amendments commence, it may be refused outright on the basis that it does not satisfy the new criteria or the applicant may be subject to a request to provide further information to the Authority. If the application is considered by the Authority before the amendments commence, a licence or licence renewal may be granted only to then be varied, cancelled or suspended several days, weeks or months later, after the commencement day, on the ground of no longer satisfying the licence criteria. Note the Statement of Compatibility:

Amendment to the fit and proper test and compliance with legal obligations requirement

Clause 10 of the Bill amends section 22 of the LHL Act to strengthen the fit and proper test and introduce mandatory consideration that the Authority must have regard to in determining if a person is fit and proper to hold a licence. Clause 11 of the Bill amends section 23 of the LHL Act to require ongoing compliance with a broader range of laws specified in section 23(1A). These sections are relevant to the grant, renewal, variation, cancellation and suspension of a licence.

The transitional provision in new section 121 (added by clause 29 of the Bill) provides that these amendments (and other amendments made by the Bill) apply in relation to an application for the issue or renewal of a licence irrespective of whether the application is made before, on or after the commencement of the amendments in the Bill. The amendments will commence on a day or days to be proclaimed and if a provision has not come into operation before 1 October 2026, then it comes into operation on that day.

Right to property

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

By amending the criteria in sections 22 (fit and proper person test) and 23 (compliance with legal obligations) of the Act, the Bill amends the grounds by which the Authority may exercise its powers of variations, suspensions and cancellations of licences.

This could have the effect of exposing existing licence holders to variation, suspension or cancellation of their licence by way of no longer satisfying the amended eligibility criteria or ongoing obligations for holding a licence.

While the effect of these provisions could lead to a deprivation of property (ie loss of a licence), I consider the provisions to be compatible with the right. The amendments to sections 22 and 23 are formulated precisely and will be publicly available and accessible to licence holders and applicants prior to their commencement. Further, these amendments are not arbitrary (capricious, unpredictable, unjust or unreasonable), in the sense of being disproportionate to the legitimate aim sought. The amendments to the fit and proper test are in part a response to a recommendation by the Formal *Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions* and aim to strengthen the licensing scheme and address identified problems in the labour hire sector. Further, the amendments to section 23 to require applicants and licence holders to demonstrate continued compliance with an expanded set of laws are proportionate and legitimate in circumstances where these laws should be being complied with in any event.

Accordingly, I do not consider these amendments to be arbitrary and any deprivation of property (resulting from a cancellation, suspension or variation on the basis of the amended section 22 or section 23) will be 'in accordance with the law'. Applicants are choosing to participate in a regulated industry and have a conditional right to a licence. It will also occur in accordance with the existing provisions of the Act, which provide for procedural fairness (in the form of a show cause notice and opportunity for the holder to give a written response to the proposed variation or cancellation) and the right of review to VCAT.

The Committee will write to the Minister and seek further information about the retrospective operation of the amendments including within the context of considering the general processing times for applications.

Where the Bill provides insufficient or unhelpful explanatory material – (Practice Note – A(iv)) – (s 17(a)(ii), PCA)

Clause **[13]** and **[14]** of the Bill amend section 28 and 29 of the LHL Act to require that an application for renewal of a licence include an acknowledgment that the Authority may require further information under section 21 or 47 of the LHL Act. However, section 21 is a provision that applies only to an application for the issue, not the renewal, of a licence; the corresponding section for a licence renewal is section 31. That section 31 is the appropriate provision in the context of the objects of clause **[13]** and **[14]** is reinforced by the fact that current section 29(1)(g) of the LHL Act refers to information that is required by the Authority under section 31 or 47.

The Committee will write to the Minister and seek further information as to whether the references in clause [13] and [14] of the Bill to 'section 21' are typographical errors and should be corrected to 'section 31'.

Charter Issues

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

State Taxation Further Amendment Bill 2025

Member	Hon Jaclyn Symes MP	**Introduction Date**	14 October 2025
Portfolio	Treasurer	**Second Reading Date**	15 October 2025

Summary

The Bill amends the *Commercial and Industrial Property Tax Reform Act* 2024 (C&IPTR Act), the *Congestion Levy Act* 2005 (CL Act), the *Duties Act* 2000, the *First Home Owner Grant and Home Buyer Schemes Act* 2000 (FHOGHBS Act), the *Land Tax Act* 2005, the *Limitation of Actions Act* 1958 (the LAA), the *Taxation Administration Act* 1997, the *Building Act* 1993 and the *Domestic Animals Act* 1994. The Bill also repeals the *Taxation (Interest on Overpayments) Act* 1986.

Preliminary

Clause **[2]** is the commencement provision. Part 1 and Part 7 come into operation on the day of Royal Assent. The remaining provisions except Division 1 of Part 4, Divisions 1 and 2 of Part 6, Part 11 and **[35]** coming into operation on the day after Royal Assent. Division 1 of Part 3, Divisions 1 and 2 of Part 6 and section 35 come into operation on 1 January 2026. Part 11 comes into operation on 30 June 2026 or on an earlier day or days to be proclaimed.

Amendments to the C&IPTR Act

The Bill amends the *Commercial and Industrial Property Tax Reform Act* 2024 in relation to transactions under which land enters the commercial and industrial property tax scheme. Note the Explanatory Memorandum:-

> Part 2 of the Bill amends the *Commercial and Industrial Property Tax Reform Act* 2024 to address anomalies and ensure that a qualifying dutiable transaction will only be an entry transaction and result in land becoming tax reform scheme land where the duty chargeable under the *Duties Act* 2000 on the qualifying dutiable transaction is 50% or more of the duty that would be chargeable on a transfer of the land without the application of any exemption or concession other than a reduction in duty under section 64B of that Act.

Clause **[4]** inserts a new paragraph (d) into section 8 providing that 'in the case of a qualifying dutiable transaction, the transaction has the duty consequences described in subsection (2)'. **[4]** also inserts new subsection (2) into section 8 setting out the formulas to determine those duty consequences. Note the Explanatory Memorandum:-

> The new requirement in new subsection (2) for a qualifying dutiable transaction aligns with the requirement that duty was chargeable on a 50% or more interest in land under a qualifying landholder transaction.
>
> It also rectifies an anomaly that land could enter the tax reform scheme under a qualifying dutiable transaction that results in nominal or minimal duty being paid.

[5]-[10]

Amendments to the *Congestion Levy Act* 2005

The Bill amends the CL Act to:

- increase the amount of the congestion levy (**[12]**);
- exempt parking spaces used exclusively for residential purposes from the operation of that Act (**[11]**,**[13]**);

- provide an exemption in relation to parking spaces on the premises of a Government school or on Government school boarding premises (**[14]**);
- provide a concession in relation to certain parking spaces for retail premises or retail shopping centres (**[15]**); and
- modify and expand the area in which the congestion levy is imposed, include registration requirements for owners of private car parks in the expanded area, and require the Commissioner to publish a map of the levy area on an appropriate website (**[16]–[19]**); and
- make statute law revisions (**[20]**).

Amendments to the *Duties Act* 2000, FHOGHBS Act and the *Lands Tax Act* 2005

The Bill amends the Duties Act, the FHOGHBS Act and the Land Tax Act in relation anomalous outcomes that can occur with respect to New Zealand citizens.

Part 4 of the Bill makes further amendments to the Duties Act to provide an exemption for transfers of dutiable property involving a custodian or sub-custodian under a trust, and to make further provision for transactions involving tax reform scheme land.

Clause **[29]** in Part 5 of the Bill also makes an amendment to the FHOGHBS Act in relation to service of documents by the Commissioner of State Revenue in relation to recovery of amounts to which section 49 of that Act applies.

Part 6 of the Bill also makes other amendments the Land Tax Act. Clause **[33]** inserts new Division 1A of Part 4 of the Land Tax Act which provides a new exemption from land tax for land valued at less than $300,000 containing a temporary residence,[35] used as the owner's principal residence, and which does not contain a building for which an occupancy permit is required.

Division 3 of Part 6 of the Bill also makes amendments to the Land Tax Act in relation to the imposition of the vacant residential land tax. Note the second reading speech:-

> The Bill amends the *Land Tax Act* 2005 (Land Tax Act) to exclude residential land in Dinner Plain village from vacant residential land tax (VRLT). This change recognises that accommodation in this area is likely to be vacant for more than 6 months of the year but is unsuitable for long-term residential use. Alpine resort areas have been excluded from VRLT since the tax expanded statewide from 1 January 2025. Dinner Plain is the only Victorian village located at a similar altitude to Victoria's alpine resorts and has a similar climate, local economy and level of amenities. However, as Dinner Plain properties are predominantly under freehold ownership, VRLT applies to vacant properties in this area. This amendment applies retrospectively from 1 January 2025 when VRLT expanded statewide. The SRO will identify and contact exempt Dinner Plain owners who paid VRLT to arrange refunds.
>
> The Bill changes the VRLT notification date from 15 January to 15 February each calendar year. Currently, owners must notify the SRO in writing if residential land they own was vacant in the previous year, and apply for certain VRLT exemptions, before 15 January. Moving the deadline to 15 February will provide more time for taxation obligations to be met by taxpayers and their legal or tax representatives. This amendment will commence from the day after Royal Assent for the 2026 land tax year.
>
> The Bill introduces a VRLT exemption for land with a residence under construction or renovation, or an uninhabitable residence, at any time during the year prior to the tax year. This ensures that VRLT is not imposed on a residence that was unavailable for occupation for a significant part of the year. This exemption will operate in addition to an existing exemption for construction or renovation being undertaken for a longer period on land. The new exemption does not impose a minimum period of

[35] New section 63A defines 'temporary residence' as 'any structure or vehicle– (a) that is capable of being used for human habitation; and (b) for which an occupancy permit is not required'.

> construction or renovation to simplify administration and maintain consistency with similar exemptions. The amendment will take effect from the day after Royal Assent for the 2026 land tax year.

While Division 4 of Part 6 of the Bill makes amendments to the Land Tax Act in relation to applications for relief from liability to pay land tax. Clause **[37]** amends section 91(2)(b)(i) and (ii) of that Act to permit the Commissioner of State Revenue to consider applications for hardship relief where the applicant's assessed tax in a year does not exceed $5000. While **[38]** repeals section 92(2) of the Land Tax Act such that the approval of the Treasurer is no longer required before the Commissioner of State Revenue may grant relief from liability to pay land tax on an application for hardship relief.

Amendment to the *Limitation of Actions Act* 1958

Clause **[41]** in Part 7 of the Bill amends section 27 of the LAA. Section 27 of the LAA postpones the commencement of limitation periods prescribed by the LAA in certain situations where the action is based on fraud, is concealed by fraud or is for relief from the consequences of a mistake such that the period of limitation does not begin to run until the plaintiff has discovered the fraud or the mistake or could with reasonable diligence have discovered it.

Clause **[41]** inserts new subsection (2) into section 27 providing that section 27 'does not apply to, or affect, the period of limitation fixed by section 20A(2) for a proceeding to which section 20A applies'.[36] While cl **[42]** provides that this amendment to s 27 applies prospectively to money paid before, on or after the commencement of Pt 7 of the Bill but does not apply to a proceeding commenced before the commencement of Pt 7 of the Bill.

Amendment to the *Taxation Administration Act* 1997

Clause **[43]** of the Bill amends the *Taxation Administration Act* 1997 to prescribe the Valuer-General as an authorised recipient of information obtained under or in relation to the administration of a taxation law.

Repeal of *Taxation (Interest on Overpayments) Act* 1986

Clause **[44]** of the Bill repeals the *Taxation (Interest on Overpayments) Act* 1986. Note the explanatory memorandum:-

> This Act is no longer required because the relevant Acts to which it applied, being the *Business Franchise (Petroleum Products) Act* 1979, the *Land Tax Act* 1958 and the *Stamps Act* 1958, have themselves been repealed and the provisions of this Act have no further effect. Section 14 of the *Interpretation of Legislation Act* 1984 provides that the repeal of the *Taxation (Interest on Overpayments) Act* 1986 will not affect the previous operation of, or anything done under, the repealed Act.

Amendments to the *Building Act* 1993

Part 10 of the Bill amends the Building Act in relation to the building permit levy imposed under that Act, including replacing the current method for calculating the amount of levy payable. Clauses **[72]** and **[73]** make consequential amendments to the *Planning and Environment Act* 1987 and the *Development Victoria Act* 2007.

Clause **[62]** of the Bill inserts new section 260A into the Building Act which seeks to retrospectively validate any action, matter or thing taken, arising or done as a result or consequence of, or in reliance

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[36] Section 20A(2) provides: 'Despite anything to the contrary in any other Act, if money paid by way of tax or purported tax or by way of an amount that is attributable to tax or purported tax is recoverable because of the invalidity of a law or provision of a law, a proceeding for the recovery of that money must (whether the payment was made voluntarily or under compulsion) be commenced within 12 months after the date of payment.'

upon, an estimate, calculation, imposition, collection, receipt or recovery referred to in section 260A(1) of the Building Act.

Note the second reading speech:-

> The Bill also amends the *Building Act* 1993 (Building Act) to ensure that the method of calculating the building permit levy is clear and fit for purpose. The amendments establish a clear calculation method going forward, validate the calculation and imposition of the levy in the past and make other consequential amendments to ensure smooth operation of the building permit levy scheme.
>
> The Building Act currently requires building permit applications to specify the contract price for the proposed building work for the Relevant Building Surveyor to estimate the cost of building work. The Victorian Building Authority, currently trading as the Building and Plumbing Commission, is required to calculate the levy payable based on the surveyor's estimate of the cost of the building work. This reliance on cost estimations has caused uncertainty about levy calculations for the building industry, its consumers and the Commission.
>
> The Bill will require the surveyor to calculate the cost of the building work using a prescribed formula, rather than "estimating" this cost. The cost of building work will be the sum of the contract price or agreed or estimated amount to be paid to the builder for carrying out the building work, including the cost of labour and material and including GST, less the cost of any chattels and any prescribed excluded items included in the contract or agreement. The formula is slightly different in relation to the building work carried out by an owner-builder.
>
> GST is expressly included for the avoidance of doubt, as the cost of the building work is intended to relate to the costs incurred by the land or building owner. The term "chattel" will retain its common law meaning and the exclusion of chattels from the cost of building work is intended to exclude goods and building materials that are not permanently affixed to the land or building at the completion of the building work. The Bill creates a head of power to prescribe in regulations any item the cost of which is to be deducted when the cost of the building work is being calculated. This will allow the concept of the "cost of the building work" for the purposes of the levy to be responsive to changing industry practices over time.
>
> Because the Bill is replacing the current method for calculating the amount of levy payable with a new formula, to address the uncertainty created by the current formula, the Bill validates all past estimates of the cost of building work and levy amounts calculated and imposed by the Commission. These validation provisions do not override any legal proceedings commenced but not finally determined before the day on which this Bill is second read in this place.
>
> Other consequential amendments to ensure smooth operation include expanding the surveyor's authority to refuse a building permit application in certain circumstances, such as if the permit application does not set out factually correct information relevant to the cost of building work, and expanding the Commission's authority to reassess levy calculations if there has been a variation to the cost of the building work.

Amendment to the *Domestic Animals Act* 1994

Clause **[74]** of the Bill amends the *Domestic Animals Act* 1994 to increase amounts payable by Councils and Greyhound Racing Victoria to the Treasurer in respect of registrations fees.

Comments under the PCA

Rights and Freedoms – Retrospectivity – (section 17(a)(i), PCA)

Clause **[62]** in Part 10 of the Bill inserts new section 260A into the Building Act which retrospectively validates:

- prior estimates of the cost of building work calculated by a relevant building surveyor under the Building Act;
- previous calculations made under the Building Act of an amount of building permit levy;

- amounts of the building permit levy, and any penalty levies, previously imposed under the Building Act;
- previous calculations, receipts of and recoveries of the building permit levy and any penalty levies;
- previous reassessments made under the Building Act of an amount of the building permit levy (sections 260A(1)(j), (k) and (l)); and
- previous actions, matters or things taken, arising or done as a result or consequence of, or in reliance upon, an estimate, calculation, imposition, collection, receipt or recovery referred to in section 260A(1)

New section 260A(3) provides that s 260A does not affect a proceeding relating to an estimate, calculation, imposition, collection, receipt or recovery where the proceeding is commenced but not finally determined before the day on which the motion for the second reading of the Bill for the *State Taxation Acts Further Amendment Act* 2025 was moved in the Legislative Assembly.

Note the statement of compatibility:-

> The clauses in Part 10 of the Bill have been included as part of a response to the decision made in *May21 Pty Ltd v Building Appeals Board* [2023] VSC 203, which was affirmed by the Court of Appeal in *Victorian Building Authority v May21 Pty Ltd* [2024] VSCA 150 (the May21 Decision). The May21 Decision concerned Subdivision 4 of Division 2 of Part 12 of the Building Act which provides for a scheme by which a building permit levy must be calculated and paid before a building permit can be issued. Specifically, the matter considered the basis on which the cost of building work should be estimated by a relevant building surveyor, which has implications for the calculation of the building permit levy by the Victorian Building Authority (VBA) under sections 205I and 205G of the Building Act.
>
> …
>
> To the extent the May21 Decision raised doubt about the validity of past estimations of the cost of building work made by relevant building surveyors, or past calculations of the amount of building permit levy payable made based on those estimates, Part 10 of the Bill provides for the retrospective validation of all past estimates of the cost of building work and all past calculations, impositions and collections of the building permit levy. The validation provisions affect all calculations, impositions and collections up to the day on which new section 260A of the Building Act comes into operation.
>
> There is a significant public interest in limiting the exposure of the VBA to claims for recovery of part of a levy on the basis of invalid levy calculation. The VBA is reliant on the building permit levy as a significant source of its revenue for the delivery of its regulatory work which includes providing assistance and protection to consumers through its dispute resolution functions and, regulation of the behaviour of industry participants. Drawing a line under all previous estimates of the cost of building work will ensure that the money collected via the building permit levy can continue to be put towards the regulatory work of the VBA rather than toward defending cases about how the cost of building work was estimated by relevant building surveyors.
>
> …
>
> The nature and extent of any limitation on rights is estimated to be low. The number of persons whose rights would be practically affected by the validation provision is likely to be relatively small. Importantly, the provision will not affect the rights of any person who has proceedings on foot at the time when the Bill is moved in the Legislative Assembly (section 260A(3)). Further, noting that the May21 Decision was made by the Supreme Court in 2023, there has been a period of more than two years in which a person who believed that the calculation of their building permit levy was affected by an inaccurate estimate of the cost of the building work, may have commenced proceedings. Accordingly, I do not consider it likely that there will be a significant number of persons who, having not so far chosen to exercise their right to commence proceedings, would, but for new section 260A of the Building Act, subsequently commence proceedings. Moreover, the LA Act imposes a 12-month limit for persons to commence proceedings to recover monies paid that constitute a tax or an amount attributable to tax for the purposes of section 20B of that Act.

Further, Part 2 of the Bill amends the CIPT Act and Division 3 of Part 4 of the Bill amends the Duties Act to make minor clarifications to those Acts which take effect from 1 July 2024. Note the Statement of Compatibility:-

> [T]he amendments are necessary to ensure that only certain transactions enter the commercial and industrial property reform scheme under the CIPT Act, and attract appropriate exemptions under the Duties Act on a subsequent transfer, as has always been intended.

The Committee notes the retrospective operation of the amendments to the Building Act, CIPT Act and Duties Act.

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 – (s. 17(b)(iii), PCA)

Section 85(1) of the *Constitution Act* 1975 provides that the Supreme Court of Victoria shall be the 'superior court of Victoria with unlimited jurisdiction'. Section 85(5) of the *Constitution Act* 1975 provides that where the jurisdiction of the Supreme Court is altered by another provision of an Act, it must be done so expressly and not by implication. The Bill must refer to s 85 and the member of Parliament who introduces the Bill must make a statement during the member's Second Reading Speech, or not less than 24 hours' notice is given of the intention to make the statement before the third reading of the Bill.

Pursuant to s 17(b)(i) and (iii) of the PCA, the Committee is required to report to the Parliament where a Bill directly or indirectly repeals, alters or varies s 85 of the *Constitution Act* 1975 or raises an issue as to the jurisdiction of the Supreme Court, as to the full implications of that issue.

Clauses **[41]** and **[42]** may raise an issue as to the jurisdiction of the Supreme Court. The explanatory memorandum explains that cl **[41]**:-

> clarifies that section 27 of the *Limitation of Actions Act* 1958 does not apply to, or affect, the period of limitation fixed by section 20A(2) of that Act. This addresses any uncertainty with respect to the applicable limitation period to challenge the validity of a tax.

In the Second Reading Speech the Minister stated:-

> While the Bill does not amend section 20A(2), I note that past practice with respect to amendments of section 20A(2) has been to comply with the requirements contained in section 18(2A) and section 85 of the Victorian *Constitution Act* 1975 (Constitution Act) which arise with respect to legislation that directly or indirectly affects the jurisdiction, powers or authorities of the Supreme Court of Victoria. While the Government does not regard such action as having been necessary when s 20A(2) was previously amended, these steps were observed in those past instances out of an abundance of caution. It is the view of the Government that this amendment, which amends section 27 only, does not affect the jurisdiction of the Supreme Court and the manner and form requirement of section 18(2A) and section 85 of the Constitution Act are unnecessary.

In the absence of compliance with section 85, it will be a matter for the Supreme Court to determine whether the amendment purports to repeal, alter or vary its jurisdiction and thus whether it has its intended operation.

Limitation periods have typically been treated as providing a bar to a remedy and not to a right and thereby create defences which must be pleaded by other parties.[37] As such they are not typically understood as going to the jurisdiction of the Court.

Despite the above, it is noted that the past practice of compliance with sections 18(2A) and 85 of the *Constitution Act* 1975 is contained within sections 36 and 38B of the LAA and as such it forms part of

[37] See, eg, *Commonwealth of Australia v Verwayen* (1990) 170 CLR 394.

the statutory context in which the amendments may be construed. While the Bill amends s 27 rather than s 20A, it is noted that Courts have in the past appeared to have considered s 27 to apply to s 20A.[38]

The Committee notes the above and will write to the Minister seeking clarification as to the reasons for departing from the cautionary practice of complying with sections 18(2A) and 85 of the *Constitution Act* 1975.

Charter Issues

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

[38] See *Commissioner of State Revenue v ACN 005 057 349 Pty Ltd* (2017) 261 CLR 509, [75]; *ACN 005 057 349 Pty Ltd v Commissioner of State Revenue* [2015] VSCA 332, [228].

Transport Legislation Amendment Bill 2025

Member	Hon Gabrielle Williams MP	**Introduction Date**	14 October 2025
Portfolio	Public and Active Transport	**Second Reading Date**	15 October 2025

Summary

The Transport Legislation Amendment Bill 2025 (the Bill) amends the *Bus Safety Act* 2009 (the Bus Safety Act), the *Commercial Passenger Vehicle Industry Act* 2017 (the CPVI Act) and the *Transport (Compliance and Miscellaneous) Act* 1983 (the TCM Act). Note the Statement of Compatibility:

> The purposes of the Bill are threefold.
>
> The first is to amend the *Bus Safety Act* 2009 (Bus Safety Act) to repeal the offence of failing to sign a certificate of accreditation on receipt.
>
> The second is to amend the *Commercial Passenger Vehicle Industry Act* 2017 (CPVI Act) to require booking service providers and drivers of commercial passenger vehicles who are, or have previously been, associated with a booking service provider to notify the regulator of certain information; to expand the public care objective; to repeal the offence of failing to sign a certificate of accreditation on receipt; to further provide for the circumstances in which the regulator may cancel a driver's accreditation; to further provide for the regulator to publish certain information in relation to enforcement action the regulator has taken; and to impose penalties on drivers of commercial passenger vehicles who display false and misleading signage in relation to their association with a booking service provider. The Bill also further provides for the recording, access, use and disclosure of data recorded in commercial passenger vehicles.
>
> The third is to amend the *Transport (Compliance and Miscellaneous) Act* 1983 (TCM Act) to facilitate new methods of obtaining or proving entitlement to use a public transport service; to apply evidentiary provisions to those new methods of obtaining or proving an entitlement to use a public transport service; and to provide for the prescribing of a computer system for the processing of concession entitlements.
>
> The Bill makes other minor and technical amendments.

Part 1 of the Bill contains preliminary provisions. Clause **[1]** sets out the purposes of the Bill. Clause **[2]** is the commencement provision. The amendments come into operation on a day or days to be proclaimed but no later than 13 October 2026.

Part 2—Amendment of Bus Safety Act

Clause **[3]** repeals section 55VB of the Bus Safety Act, which makes it an offence for an accredited bus driver to fail to sign a paper certificate of accreditation issued to them. Note the Explanatory Memorandum:

> This is being repealed as the offence is redundant as Safe Transport Victoria is no longer issuing paper certificates of accreditation and does not have any paper certificates in circulation under the bus safety scheme.[39]

Part 3 – Amendment of CPVI Act

Part 3 of the Bill amends the CPVI Act, which establishes a regulatory framework for the commercial passenger vehicle industry. A commercial passenger vehicle service is broadly defined as the carriage

[39] For the same reason in respect of the commercial passenger vehicles scheme, clause **[9]** of the Bill repeals section 87 of the CPVI Act, which makes it an offence for a person to fail to sign a paper certificate of driver accreditation issued to them.

of passengers in a motor vehicle in return for a fare or consideration,[40] and includes taxis and rideshare services.[41]

The Bill reforms the use of security camera and audio recording devices in commercial passenger vehicles and the access and disclosure of data obtained from this use. Clause **[16]** substitutes section 270 and 271 and inserts new section 271A to:

- Remove the prohibition against making an audio recording of a passenger (current section 270(4)).

  Under new section 270(5), a person will instead be permitted to make an audio recording of any passenger of a commercial passenger vehicle, provided they use an audio recording device that is approved under the regulations.[42,43,44]

  Note the Second Reading Speech:

  > The Bill will permit security cameras and approved recording devices installed in commercial passenger vehicles to record audio. Presently, audio recordings in commercial passenger vehicles are not permitted in any circumstance. This has placed limitations on what the regulator and Victoria Police can use as evidence when investigating an incident or complaint. Enabling recording of images in conjunction with audio establishes a more comprehensive picture of what has occurred in a commercial passenger vehicle. A verbal exchange or agreement between a driver and passenger can be key to determining the outcomes of certain incidents, such as fare overcharging. Enabling audio recording significantly enhances the tools available to the regulator and other law enforcement agencies for compliance, enforcement and investigative purposes.

- Replace the existing process for downloading, possessing, publishing, transmitting or disclosing security camera data, which currently requires a person to be acting in accordance with an agreement with the regulator, the written authorisation of the regulator, or the regulations (current sections 270(1)-(3) and 271).

  Under new sections 270(1)-(4), a person will instead be permitted to download, possess, publish, transmit or disclose an image, audio recording or any other data obtained from the use of a security camera or an audio recording device in a commercial passenger vehicle, provided that the person is an authorised person acting in accordance with their authorised purpose under new section 271.[45] These authorised persons and purposes are:

  - the regulator—for the purpose of carrying out the regulator's functions under the Act and the regulations, including the investigation of an offence against an industry law;[46]
  - a police officer—for the purpose of carrying out the police officer's duties;

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40 For the full definition, see section 4 of the CPVI Act.

41 Note the Second Reading Speech: 'Both taxis and rideshare services now make up the commercial passenger vehicle industry, with the size of the industry progressively maturing over the past eight years to deliver more services to the Victorian community.'

42 New section 270(5) is set out:

270 Offences relating to security cameras and audio recording devices

…

(5) A person must not make an audio recording of any passenger of a commercial passenger vehicle unless the recording is made by an audio recording device approved by the regulator under the regulations.

Penalty: In the case of an individual, 240 penalty units;
In the case of a body corporate, 1200 penalty units.

43 Clause [18] amends item 28 of Schedule 2 of the CPVI Act to provide for the requisite regulation-making power.

44 New section 270(6) provides that the *Surveillance Device Act 1999* continues to apply in these contexts.

45 Ibid.

46 'Industry law' is defined in section 3 of the CPVI Act. It includes the CPVI Act and the regulations. It also includes section 81, 82, 83, 83A and 324 of the *Crimes Act 1958* (Vic) and rules and regulations made under section 95D or for the purposes of schedule 2, item 34, of the *Road Safety Act 1986* (Vic), but only if there is the specified connection to a commercial passenger vehicle service.

- a registered booking service provider—for the purpose of assisting the regulator or a police officer carry out their respective authorised purpose;
- an authorised person or a class of authorised person—for a purpose specified in writing by the regulator or a prescribed purpose.[47]

Note the Second Reading Speech:

> Access to security camera and audio recording data will be streamlined under the Bill. In addition to the regulator, Victoria Police and booking service providers will have direct authority to access, use and disclose security camera and audio recording data for investigative purposes. A direct legislative authority will reduce administration burden and enable more rapid investigations of incidents. The Bill also enables other persons to be prescribed or specified by the regulator as an authorised person who can access, use and disclose security camera and audio recording data.
>
> The direct access to security camera and audio recording data will be limited under the Bill. Persons authorised to access, use and disclose security camera and audio recording data may only do so if it is for an authorised purpose. The Bill will ensure that the regulator can access, use and disclose security camera and audio recording data to carry out their functions, including the investigation of an offence against commercial passenger vehicle laws. Victoria Police will be able to access, use and disclose security camera and audio recording data so that police officers can carry out police officer duties, such as investigating and prosecuting crime and road safety laws. Booking service providers will only be allowed to access security camera and audio recording data if the purpose is to assist the regulator or Victoria Police in carrying out their purposes. These measures are cognisant of the importance of providing for legislative constraints on the purposes by which images and audio are used. The Bill ensure that this type of data is only directly accessible for purposes that enable the regulator and Victoria Police to do their jobs.
>
> However, this Government recognises that flexibility may be needed to access commercial passenger vehicle security camera images and audio recording data for purposes other than regulatory means. The Bill enables other purposes to be prescribed or specified by the regulator. This means over time, there is flexibility for the types of authorised purposes by which an authorised person may access, use and disclose security camera audio recording data to be expanded. An example of possible additional purposes for booking services providers could include access to security camera data to assist with training and managing complaints.

- Enable the regulator to determine minimum standards relating to the collection, possession, transmission, disclosure and destruction of security camera and audio recording device data, which minimum standards an authorised person must comply with under new section 271A(2). (New section 271A(2) does not apply to authorised persons who already have privacy obligations under Part 3 of the *Privacy and Data Protection Act* 2014).

  Note the Second Reading Speech:

  > Even though the Bill provides for streamlined access to security camera data and audio recording data, strict safeguards will be put in place to ensure that security camera and audio recording data are protected from misuse. The Bill empowers the regulator to determine minimum standards in relation to the collection, possession, transmission, disclosure and destruction of security camera and audio recording data. All authorised persons will be required to comply with the minimum standards, except for public sector organisations who are already subject to privacy standards under the *Privacy and Data Protection Act* 2014.

If a body corporate commits an offence against any of these provisions (i.e., new sections 270(1)-(5) or 271A(2)), an officer of the body corporate who failed to exercise due diligence to prevent the commission of the offence is also liable for the offence. **[17]**

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[47] Clause [18] inserts new item 35A in Schedule 2 of the CPVI Act to provide for the requisite regulation-making power with respect to 'downloading, copying, possession, publication, transmission or disclosure of audio recording or other data obtained from audio recording devices installed in commercial passenger vehicles'. Schedule 2, item 35, already provides for the same regulation-making power with respect to security cameras.

The Bill imposes new conditions for booking service provider registration and driver accreditation, whereby associations between drivers and booking service providers must be provided to the regulator. **[6]**,**[8]** (**See Practice Note Comment)** Clause **[6]** inserts new section 60(1AA) and 60(1AB), whereby a registered booking service provider must notify the regulator at least annually of the name and accreditation number of drivers who use their booking services.[48] If a booking service provider fails to do so, the regulator may suspend or cancel their registration under new section 60(5). Clause **[8]** inserts new section 77(1AA) and 77(1AB), whereby an accredited driver must notify the regulator, annually and within 5 days of any change in circumstance, whether the driver accepts bookings and whether the driver is associated with a booking service provider—and, if so, the name of the registered booking service provider or the contact details of an unregistered one. If a driver fails to do so, the regulator may suspend or cancel their accreditation under new section 77(7). Note the Second Reading Speech:

> The Bill requires drivers and booking service providers to notify Safe Transport Victoria of the booking service provider a driver is associated with and whether a driver is a small booking service provider. Greater transparency around driver association and booking services will enable the regulator to gather more comprehensive information on the structure and composition of the commercial passenger vehicle industry.

Clause **[15**] inserts new section 267C, prohibiting drivers from displaying signage associated with a booking service provider on their vehicle if they are not an associated driver for that booking service, with a maximum penalty of 20 penalty units.

Clause **[11]** expands the existing grounds for mandatory cancellation of driver accreditation under section 219 to include any situation where a driver has, within the last 10 years, been found guilty of two or more of the following: an offence against section 110G (excessive fares); an offence against section 113 (excessive surcharges); an offence prescribed by the regulations.[49]

Drivers of commercial passenger vehicles are currently subject to a public care objective to provide services (particularly to children and other vulnerable persons) with safety, comfort, amenity and convenience and in a manner that is not fraudulent or dishonest. Clause **[7]** expands the public care objective to require that drivers also provide services without 'discrimination, sexual harassment or other conduct that is inconsistent with community standards of acceptable conduct'.[50] Clause **[10]** inserts new section 214(b)(iii) to enable the regulator to take disciplinary action against drivers who contravene the public care objective.[51,52]

Section 227 currently requires the regulator to keep a register of persons who hold a commercial passenger vehicle registration, a booking service provider registration or a driver accreditation.[53] Clause **[12]** expands the information that is mandatory to keep on the register to include details of

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48 Notification must occur on the day the booking service provider is registered and on the anniversary of the registration—and, if the regulator specifies another time, at that time. [6]

49 In new section 219(1)(c), 'guilty' means found guilty within the meaning of Part 5 of the CPVI Act, which includes, among other things, by a court's formal finding of guilty, by a court's acceptance of a guilty plea or sentencing admission, or by certain infringement notices taking effect as convictions.

50 New section 69(2) provides that the meaning of 'discrimination' and 'sexual harassment' in new section 69(a)(iii) is the same as in section 4(1) and section 92 of the *Equal Opportunity Act 2010*. [7] However, 'other conduct that is inconsistent with community standards of acceptable conduct' is not defined by the Bill. Nor is it explained in the extrinsic materials. There are comparative instances of this language being used in other statutes, however, including section 4(2)(h) of the *Mental Health and Wellbeing Act 2022* (Vic) (the meaning of mental illness) and sections 53R, 53S, 53T and 53U of the *Crimes Act 1958* (Vic) (the production or distribution of an intimate image).

51 Section 247 of the CPVI Act provides a right of internal review as well as application to VCAT for certain decisions taken by the regulator, including decisions about disciplinary action.

52 The public care objective is already a relevant consideration for the regulator in relation to, among other things, specifying a course of training for driver accreditation and imposing, varying or revoking conditions on accreditation. See, for example, section 72(3)(b), 75(1)(a), 77(2), 81(2), 85(3) of the CPVI Act.

53 See the definitions of 'permission' and 'permission holder' in section 3 of the CPVI Act.

court orders, disciplinary actions and VCAT review decisions made against such a person under the CPVI Act. This information will be made publicly available unless the regulator determines that restricting public access to the information is justified in the circumstances.[54] Note the Second Reading Speech:

> The Bill also requires that Safe Transport Victoria publish disciplinary actions taken against industry participants on their public register. This will facilitate transparency, act as a deterrent against non-compliance and mitigate the risk of industry participants continuing to behave contrary to the law.

The Bill makes other minor and technical amendments to the CPVI Act. **[4,5,6(2),8(2),9,13,14,20]**

Part 4 – Amendment of TCM Act

Part 4 of the Bill amends the TCM Act to provide the option for passengers to use credit and debit cards in the place of myki cards, as a new form of obtaining and proving an entitlement to use a public transport service.

Clause **[21]** defines 'ticket' as 'an entitlement to use a public transport service'.[55] Clause **[22]** inserts definitions of 'token' and 'State token' and makes consequential amendments to the existing definitions of 'hand held reader' and 'prescribed device' for the purposes of Part VII of the TCM Act.[56] Under the new scheme, a token is defined as a thing that may lawfully be used for the purpose of obtaining or proving the existence of a ticket and may be:

- a State token, which is issued by or on behalf of the Head, Transport for Victoria;
- prescribed; or
- approved by the Minister by notice in the Government Gazette.

Note the Statement of Compatibility:

> Clause 22(d) of the Bill inserts definitions of *token* and *State token* into section 208 of the TCM Act. A token is a thing that may lawfully be used for the purpose of obtaining, or proving the existence of, a ticket. A token may be a State token, or may be prescribed, or approved by Ministerial notice published in the Government Gazette, to be a token.
>
> A ticket is obtained from the use of a token which, if used in accordance with the Conditions made under section 220D of the TCM Act, will ensure that a person travels, or enters a compulsory ticket area, with a valid ticket. The Ticketing Regulations provide for offences, defences and related matters to support the regulatory scheme for public transport ticketing.
>
> A State token is a token issued by or on behalf of the Head, Transport for Victoria (Head, tfv), the body corporate established under the *Transport Integration Act* 2010. Myki Smartcards, Mobile myki (which are digital myki) and V/Line paper tickets are each examples of State tokens. Myki Smartcards and Mobile myki operate in a closed electronic system where there is only one merchant (the Head, tfv).
>
> Debit or credit card Smartcards, and digital debit or credit card digital cards, are tokens but are not State tokens. For example, when a debit or credit card that is a smartcard is used to purchase an entitlement to travel, the smartcard is the token for the purposes of the Act and the Ticketing Regulations, and the entitlement is the ticket.

Clause **[27]** makes consequential amendments to the power under section 221AA(1) to make regulations for or with respect to the entitlement to use public transport services, substituting references to 'tickets' and 'tokens'. It also inserts new section 221AA(1)(ca), which provides new

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54 Or unless an application for, or review of, such a determination is underway: see sections 228, 230, 232, 252 of the CPVI Act.

55 Clause [21] and [22] also move the definition of 'public transport service'. The definition is repealed from section 208 of Part VII and inserted into section 2(1) of the TCM Act.

56 Clause [22] also repeals the definition of 'smartcard' for the purposes of Part VII of the TCM Act.

regulation-making power for or with respect to: 'prescribing a computer system and the related processes for the purpose of collecting, managing, processing, summarising, storing and transmitting information relating to concession entitlements for public transport services'. Note the Statement of Compatibility:

> Any new regulations prescribing a computer system used for the processing of concession entitlements will likely require a person to provide proof of concession entitlement. However, a person can choose whether or not to submit an application for concession, or to authorise, or not authorise, another person or body (such as a health care provider) to do so.

It is an existing offence under section 220AA for a person to give false information to certain people, including a public transport service employee who has duties in relation to the issue, inspection or collection of tickets. Clause **[23]** amends this provision to read 'the issue, inspection, scanning or collection of tickets and tokens'. Note the Statement of Compatibility: 'While references to scanning and tokens are added to this provision, this does not change the effect of the offence'. The same amendment is made to section 225(1), which provides that it is an offence to assault, obstruct or refuse to comply with such a person or their assistant, or to incite another person to do so. **[29]**

It is also an existing offence under section 220A and 220B to fraudulently or dishonestly obtain, or to counterfeit, or to alter with the intention to obtain a benefit, a ticket or other thing that can be used to prove an entitlement to use a public transport service. These provisions are similarly amended to substitute reference to a State token. **[24,25]**

The Bill substitutes sections 230AB and 230AC. **[30]** These are evidentiary provisions that apply for the purposes of any proceedings relating to a 'ticket offence'.[57] The amendments to these provisions provide for a prescribed device, or a certificate issued by an authorised officer using a hand held device on a token, to be used as evidence of a fact relating to a token (including, among other things, the existence of a ticket). Note the statement of compatibility:

> Substituted sections 230AB and 203AC have essentially the same effect as the existing sections, but apply to tokens instead of smartcards. …

Section 230AC(2) presumes that a certificate issued under section 230AC(1) is accurate. Existing section 230AD provides for a similar presumption with respect to information from a prescribed device in section 230AB. The facts or matters evidenced by a section 230AC or 230AD certificate may be taken as conclusively proved pursuant to the process under existing section 230AE. However, existing section 230AF allows for the accused by written notice to indicate an intention to rebut the presumption of accuracy, whereby the certificates cease to be conclusive proof of the facts or matters raised in the notice but remain admissible as evidence. Note the Statement of Compatibility:

> The changes to the provisions give effect to the use of tokens and, without the amendments, the ability to effectively enforce the requirement to have a valid ticket and conduct efficient and effective prosecutions, and to control fare evasion, will be undermined.
>
> The organisational and administrative burden involved in providing offences would be extensive, even where no real challenge to the reliability of the technology, devices and ticketing computer system. Experts might be required to give highly technical evidence for each court case, and this would result in more cases, and an increased burden on the courts.
>
> Clause 31 of the Bill also enables regulations to be made to prescribe associated processes by amending section 230AH of the TCM Act. These are linked to the evidentiary provisions and relate to the prescription of devices and processes. These are essentially machinery or mechanical in nature. Noting

[57] Section 208 of Part VII of the TCM Act defines 'ticket offence' as meaning an offence against Division 4 or any regulations made under section 221AA. Sections 220AA, 220A and 220B, which are amended by the Bill, each fall within Division 4 of Part VII of the TCM Act and are thus 'ticket offences' to which sections 230AB and 230AC apply.

the provisions in section 230AF, I consider that while this limits the right to a fair hearing, there are no less restrictive means available.

The Bill makes other minor and technical amendments to the TCM Act, including amending the headings of the abovementioned provisions and updating or simplifying language. **[21,22,24,26,28,31]**

Comments under the PCA

Where the Bill provides insufficient or unhelpful explanatory material – (Practice Note – A(iv))

Clause **[19]** is a transitional provision, which provides that the conditions in sections 60(1AA) and 77(1AA), as amended by clauses **[6]** and **[8]** of Part 3 of the Bill, apply 'on and from the commencement of Part 2' of the Bill.

The Committee will write to the Minister and seek further information as to whether the references in clause [19] of the Bill to 'Part 2' are typographical errors and should be corrected to 'Part 3'.

Charter Issues

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

Voluntary Assisted Dying Amendment Bill 2025

Member	Hon Mary-Anne Thomas MP	**Introduction Date**	14 October 2025
Portfolio	Health	**Second Reading Date**	15 October 2025

Summary

The Bill amends the *Voluntary Assisted Dying Act* 2017 (VAD Act) to:-

- Improve the experience of voluntary assisted dying; and
- Make consequential amendments.

Background

The Voluntary Assisted Dying Bill 2017 was introduced on 20 September 2017 and Second Read on 21 September 2017. The Committee reported on the Voluntary Assisted Dying Bill in Alert Digest No 14 of 2017.[58] The Voluntary Assisted Dying Bill received Royal Assent on 5 December 2017. A five year review into the operation of the VAD Act was undertaken. It considered how the legislation has been implemented and is operating to enable access for Victorians seeking the end-of-life choice. A report entitled *Review of the Operation of Victoria's Voluntary Assisted Dying Act 2017* dated October 2024 was tabled in the Parliament in February 2025.[59]

Part 1 – Preliminary – Part 2 – Amendment of VAD Act

Clause [2] is the commencement provision. The Bill comes into operation on a day or days to be proclaimed or on 19 April 2027 if not proclaimed before that date. In relation to the delayed commencement provision the Committee notes the Explanatory memorandum.[60] It amends a number of definitions. This includes 'administering practitioner'[61], 'administration decision'[62], 'nurse practitioner'[63], 'self-administration decision'[64], 'administration authorisation',[65] 'contact person'.[66] It

58 Scrutiny of Acts and Regulations Committee, *Alert Digest No 14 of 2017*, pp 23-40 <https://www.parliament.vic.gov.au/4a941d/globalassets/committee-publication-record-documents/committee-36/publication-111/alert-digest-no-14-of-2017.pdf>.

59 Legislative Assembly of Victoria, *Votes and Proceedings*, No 111 — Thursday 20 February 2025;
Legislative Council, *Minutes of the Proceedings*, No. 103 — Thursday, 20 February 2025.

60 Note the Explanatory memorandum:- 'The 18-month implementation period is to allow the Department of Health to—
- prepare voluntary assisted dying health practitioners and the broader health sector to understand and implement the amendments; and
- prepare administrative systems and processes for the implementation of amendments; and
- prepare the broader community to understand the amendments.'

61 See s 3(a), *administering practitioner* for a person who is the subject of a voluntary assisted dying permit means—
(a) the co-ordinating medical practitioner for the person; or
(b) a practitioner referred to in section 56A who—
(i) is not the co-ordinating medical practitioner for the person; and
(ii) accepts a transfer of the administration authorisations under the permit.

62 See s 3(a), *administration decision* means a self administration decision or a practitioner administration decision.

63 See s 3(a), *nurse practitioner* means a registered nurse who is endorsed under the Health Practitioner Regulation National Law to practise as a nurse practitioner.

64 See s 3(a), *self-administration* decision means a decision referred to in section 44A(1)(a).

65 See s 3(a), *administration authorisations* means the authorisations specified in section 51C(3) and (4).

66 See s 3(a), substituted definition of *contact person* means a person appointed under new section 44E(1).

inserts the definition of 'health service provider.'[67] Other definitions remain unamended. This includes 'health facility'[68] and 'health service'[69] and 'registered health practitioner.'[70]

The term 'registered medical practitioner' is used throughout the Bill but not defined. Section 38EA(1) of the *Interpretation of Legislation Act* 1984 provides that a 'registered medical practitioner' means 'a person registered under the Health Practitioner Regulation National Law to practice in the medical profession.'[71] A 'voluntary assisted dying permit' means a permit that authorises conduct set out in Division 2 of Part 4. [A 'co-ordinating medical practitioner' means a person who is a registered medical practitioner who accepts the person's first request or a consulting medical practitioner for the person who accepts a transfer of the role of co-ordinating medical practitioner. (See section 33.)]

It amends existing section 7 which enshrines the right of registered health practitioners to conscientiously object to participating in or facilitating access to voluntary assisted dying. **[6]** (See PCA)

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67 'Health service provider' has the same meaning as in section 3(1) of the *Health Complaints Act* 2016.
health service provider means a person who provides a health service.

68 See s 3 of the *Voluntary Assisted Dying Act* 2017. 'Health facility' has the same meaning as in the *Medical Treatment Planning and Decisions Act* 2016.
health facility means— (a) the following within the meaning of the *Health Services Act* 1988— (i) denominational hospital; (ii) multi purpose service; (iii) private hospital; (iv) public health service; (v) public hospital; (vi) residential care service; (vii) State funded residential care service; and (b) the Victorian Institute of Forensic Mental Health established under Chapter 14 of the *Mental Health and Wellbeing Act* 2022; and (c) a residential service within the meaning of the *Disability Act* 2006; and (caa) accommodation approved for supervised treatment under section 187 of the *Disability Act* 2006; and (caab) a short-term accommodation dwelling within the meaning of the *Disability Act* 2006; and (ca) an SDA dwelling within the meaning of the *Residential Tenancies Act* 1997; and (d) a supported residential service within the meaning of section 214 of the *Social Services Regulation Act* 2021.

69 See s 3 of the *Voluntary Assisted Dying Act* 2017. 'Health service' has the same meaning as in the *Health Complaints Act* 2016.
health service means the following services—(a) an activity performed in relation to a person that is intended or claimed (expressly or otherwise) by the person or the provider of the service— (i) to assess, predict, maintain or improve the person's physical, mental or psychological health or status; or (ii) to diagnose the person's illness, injury or disability; or (iii) to prevent or treat the person's illness, injury or disability or suspected illness, injury or disability; (b) a health related disability, palliative care or aged care service; (c) a surgical or related service; (d) the prescribing or dispensing of a drug or medicinal preparation; (e) the prescribing or dispensing of an aid or piece of equipment for therapeutic use; (f) health education services; (g) therapeutic counselling and psychotherapeutic services; (h) support services necessary to implement any services referred to in paragraphs (a) to (g); (i) services— (i) that are ancillary to any other services to which this definition applies; and (ii) that affect or may affect persons who are receiving other services to which this definition applies; (j) any other prescribed services.
Example. Examples of services to which paragraph (i) applies are laundry services, cleaning services and catering services.

70 See s 3 of the *Voluntary Assisted Dying Act* 2017. *registered health practitioner* means a person registered under the Health Practitioner Regulation National Law to practise a health profession (other than as a student).

71 See *Interpretation of Legislation Act* 1984, s 38E, *Health Practitioner Regulation National Law* means—
(a) the Health Practitioner Regulation National Law—
(i) as in force from time to time, set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009* of Queensland; and
(ii) as it applies as a law of Victoria, another State or a Territory (with or without modification); or
(b) the law of another State or a Territory that substantially corresponds to the law referred to in paragraph (a)
Health Practitioner Regulation National Law (Victoria) means the provisions applying because of section 4 of the *Health Practitioner Regulation National Law (Victoria) Act 2009*.

Who may initiate discussions about voluntary assisted dying – Registered medical practitioner – Nurse practitioner – Registered health practitioner who is not a registered medical practitioner or nurse practitioner – Must advise the person the most appropriate person with whom to discuss voluntary assisted dying and any treatment or palliative care options available is the registered medical practitioner responsible for medical care or any other registered medical practitioner

Existing section 8 provides that discussions about voluntary assisted dying must not be initiated by a registered health practitioner. Currently any information about voluntary assisted dying must be provided to a person at that person's request.

It substitutes section 8A. New section 8A provides discussion about voluntary assisted dying may be initiated by a registered medical practitioner or nurse practitioner in the course of discussion about end of life care.[72] New section 8A further provides discussion about voluntary assisted dying may be initiated by a registered health practitioner[73] who is not a medical practitioner or nurse practitioner in the course of discussion about end of life. **[7]** Note the Second Reading Speech:-

> First, the Bill permits registered health practitioners to initiate discussions about VAD within strict safeguards. Medical practitioners and nurse practitioners will be able to raise VAD as an option their patient can consider, provided they also discuss other available options, such as potential treatment and palliative care, and assist the person to access support. Other registered health practitioners, such as nurses and allied health professionals who may be part of a person's treating or care team, can also initiate discussions in the course of broader end-of-life discussions, but they must advise the person that a medical practitioner is the most appropriate person to speak to about VAD and other care options.

Eligibility – Change of time limit – Death within weeks or months not exceeding 6 months to 12 months

It amends section 9 which set out eligibility criteria for access to voluntary assisted dying. **[8]** It amends existing section 9(1)(d)(3) and changes the time limit. A person must be diagnosed with a disease, illness or medical condition that 'is expected to cause death within 12 months'. It repeals section 9(4) in relation to a disease, illness or medical condition that is neurodegenerative.[74]

In summary, amended section 9 provides for a person to be eligible for access to voluntary assisted dying the person must:-

- Be aged 18 years or more; and
- Be an Australian citizen or;
- Be a permanent resident or;
- At the timing of making a first request have been ordinarily a resident in Australia for at least 3 years; and
- Be ordinarily resident in Victoria; and [See new section 9(1)(ba). See the legislative note: A person requesting access to voluntary assisted dying may apply for an exemption from compliance with the eligibility criteria set out in this paragraph—see section 9A.]

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72 Note the Explanatory memorandum:- 'It is noted that this may occur across multiple discussions and in accordance with section 37(c) of the *Interpretation of Legislation Act* 1984, the use of 'discussion' in the singular in this provision is taken to also include the plural.'

Any breach of amended section 8 will constitute unprofessional conduct within the meaning of and for the purposes of the Health Practitioner Regulation National Law.

73 Op cit., fn ~~70~~70.

74 See repealed subsection 9(4):

(4) Despite subsection (1)(d)(iii), if the person is diagnosed with a disease, illness or medical condition that is neurodegenerative, that disease, illness or medical condition must be expected to cause death within weeks or months, not exceeding 12 months.

- Be ordinarily resident in Victoria for at least 12 months at the time of making the first request; [See new section 9(1)(bb). See legislative note: A person requesting access to voluntary assisted dying may apply for an exemption from compliance with the eligibility criteria set out in this paragraph—see section 9A.]
- Have decision-making capacity;
- Be diagnosed with a disease, illness or medical condition that is incurable, advanced, progressive and will cause death and is expected to cause death within 12 months; and
- Is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.

It also inserts new section 9A which provides a person requesting access to voluntary assisted dying may apply to the Secretary for an exemption from compliance with the eligibility criteria as set out above. An exemption may be granted if the applicant has a substantial connection to Victoria and there compassionate ground that warrant the exemption. **[9]**

It amends the minimum requirements for co-ordinating medical practitioners and consulting medical practitioners from the requirement from 5 years to one year after being granted specialist registration or vocational registration. **[10]** The registered medical practitioner must not accept the first request unless the practitioner holds a specialist registration or is a vocationally registered general practitioner. A first request must be refused if the practitioner is a family member of the person making the request, believes or knows they are a beneficiary under the person's will or is to benefit financially or in any material way. **[11]**

It repeals sections 18(4)(5) and (6) and removes the requirement for a third prognosis assessment for people with a neurodegenerative condition.[75] **[15]** The outcome of a first assessment must be recorded in the prescribed form. **[18]** It shortens the waiting period from 9 days after the first request to 5 days before making a final request for voluntary assisted dying. **[28]**

New Part 3A – Administration decision – New Part 3B – Contact person – Application for voluntary assisted dying permit made to Secretary by the co-ordinating medical practitioner – Two methods of administration – A new administering practitioner's role – Transfer of authorisation under a voluntary assisted dying permit – Administering practitioner

The Bill removes the current distinction between self-administration permits and practitioner administration permits. Note the Statement of Compatibility:-

> The Bill amends the VAD Act by replacing the current voluntary assisted dying permit system -consisting of two separate permits: the 'self-administration permits' and the 'practitioner administration permits' - with a one-permit system… Clause 32 inserts new Part 3A and 3B (sections 44A - 44F) in the VAD Act, introducing a new 'administration decision'… New Part 3A provides the framework for making and revoking administration decisions. Part 3B sets out the requirements for the appointment of a contact person in relation to self-administration decisions.

It inserts new Parts 3A and 3B for authorisations and requirements for making an administration decision. **[32]** New Part 3A provides for administration decisions. A person who makes an administration decision must make the decision personally. An administration decision may be revoked at any time by the person who made it. New section 44A provides a person who makes a final

[75] Note the Explanatory memorandum:-'Clause 15repeals sections 18(4), (5) and (6) of the Principal Act to remove the requirement for a third prognosis assessment for people with a neurodegenerative condition. Any person suffering from a life limiting illness who wants to access voluntary assisted dying, including those with a neurodegenerative condition, is required to be assessed by 2 separate medical practitioners.'

request may decide in consultation with the co-ordinating medical practitioner that the person intends to access voluntary assisted dying by:-

- Self-administering a voluntary assisted dying substance; or
- Having an administering practitioner administer a voluntary assisted dying substance to the person.

New section 44B requires the co-ordinating medical practitioner for a person who makes an administration decision to record the administration decision made in the person's medical record. Additionally, it is noted there are requirements under new section 57A(2) that the co-ordinating medical practitioner notify the Voluntary Assisted Dying Review Board (Board) of a person's administration decision after prescribing a voluntary assisted dying substance to the person. **[32]**

It substitutes section 47 to provide for an application for a voluntary assisted dying permit. Applications are made to the Secretary by the co-ordinating medical practitioner.[76] **[36]** Note the Explanatory memorandum:-

> These amendments mean that there is no longer a distinction between practitioner administration permits and self-administration permits. Instead, a person may make an administration decision under new section 44A. New Division 2 of Part 4 provides for specific authorisations depending on the type of administration decision that a person has made. As such, substituted section 47 consolidates the processes for applying to the Secretary to the Department of Health for permits under current sections 47 and 48 of the Principal Act.

A new administering practitioner's role – Transfer of authorisations specified under a voluntary assisted dying permit – Administering practitioner can be a registered medical practitioner who holds specialist registration, a vocationally registered general practitioner, a nurse practitioner or a registered nurse who has held registration as a registered nurse for at least 5 years.

It inserts a new role for an administering practitioner. It inserts new Division 2 of Part 4 which sets out what is authorised by a voluntary assisted dying permit if a self-administration decision is in effect and when a person has revoked a self-administration decision. **[39]** [See new section 44A(1)(a) and new section 51B] New section 51B sets out what is authorised by a voluntary assisted dying permit and a practitioner administration is in effect. It authorises the administering practitioner to possess and use the voluntary assisted dying substance for the purposes of administering the substance to the person. It substitutes new sections 57A to 57D.

It inserts new Division 1A of Part 5 which provides for the transfer of the authorisations under a voluntary dying assisted permit relating to the administration of a voluntary assisted dying substance to a person who has made a practitioner administration decision that is in effect. (See new sections 63A to 63E.) **[4,49]** Those sections specify information which must be given to a person who makes a self-administration decision before prescribing a voluntary assisted dying substance to the person. All matters must be recorded and notification given to the Board as soon as practicable. **[43]**

An administration practitioner must not accept a transfer of administration authorisations if the practitioner is a family member, a beneficiary of the will of the person who is the subject of the permit or benefit financially in any other material way etc.[77] (See new section 63B). It substitutes section 65

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[76] The co-ordinating medical practitioner must be satisfied the person has decision making capacity and the request for access to voluntary assisted dying is enduring and make a statement to that effect. The application must be in the prescribed form; identify the person in respect of whom the permit is sought and be accompanied by completed final review forms, the first assessment report form, all consulting assessment forms and the written declaration.

[77] Note the Second Reading Speech:- 'It is proposed that the Act be amended to prohibit medical practitioners, nurse practitioners, and registered nurses from acting as the coordinating or consulting medical practitioner or the administering practitioner if they are the beneficiary or family member of the applicant. This safeguard provides additional reassurance about coercion, particularly in light of the amendment allowing registered health practitioners

to set out the requirements for a witness to a practitioner administration request and actions which must be taken. A practitioner administration request must be made in the presence of a witness under section 64(4). It substitutes section 66 to provide for matters an administering practitioner must certify after administering a voluntary assisted dying substance. **[52]** It inserts new Division 1AA which sets out the minimum requirements for administering practitioners. Note the Statement of Compatibility:-

> Clause 49 of the Bill inserts new Division 1A of Part 5 (sections 63A - 63E) of the VAD Act which regulates instances where the co-ordinating medical practitioner transfers the authorisation to administer the voluntary assisted dying substance to another medical practitioner, a nurse practitioner or a registered nurse with 5 years' experience…
>
> Under the current Act, practitioner administration of voluntary assisted dying substances can only be administered by the coordinating medical practitioner (or the consulting medical practitioner or a third medical practitioner, if the coordinating medical practitioner role is transferred to them). In order to provide more flexibility regarding the administration of a voluntary assisted dying substance, the Bill introduces a new 'administering practitioner' role.
>
> Clause 42 inserts new Division 1AA of Part 5 of the VAD Act which deals with the minimum requirements for administering practitioners, and provides in new section 56A that an administering practitioner must be either a registered medical practitioner who holds specialist registration, a vocationally registered general practitioner, a nurse practitioner or a registered nurse who has held registration as a registered nurse for at least 5 years. The Bill further makes the necessary amendments to authorise the newly introduced administering practitioner role to handle and administer the voluntary assisted dying substance in accordance with the processes and requirements provided for in the VAD Act.

New Part 3B – Appointment of a contact person on or after a person makes a self-administration decision

New Part 3B section 44E provides for the appointment of a contact person. On or after a person makes a self-administration decision, the person must appoint a person who is 18 years of age or over as the person's contact person. It must be made in the prescribed form and in the presence of a witness over the age of 18 years. It must be signed by the person making the self-administration decision and the person being appointed as the contact person. **[32]** It amends section 6 which sets out when a person may access voluntary assisted dying. It removes the requirement set out section 6(e) that a contact person be appointed before any person accesses voluntary assisted dying. It inserts new section 6(fa) which requires a person to have made either a self-administration decision and appointed a contact person and the self-administration decision is in effect or a practitioner administration decision and the practitioner administration decision is in effect. **[5]**

Amendments require registered medical practitioners to notify the Registrar of Births, Deaths and Marriages and the State Coroner of certain matters regarding the administration of a voluntary assisted dying substance. **[54-58]** Consequential amendments are made to provide that an eligible applicant may apply to the VCAT for review of a decision made by a co-ordinating practitioner in relation to a person's decision-making capacity for the purposes of making an application for a voluntary assisted dying permit. [78]**[55]**

A registered health practitioner must notify the Australian Health Practitioner Regulation Agency (AHPRA) as soon as practicable after forming a reasonable belief that another registered practitioner has initiated or is attempting to initiate a discussion about voluntary assisted dying that is not or would not be in accordance with the Act. Similarly a person may voluntarily notify AHPRA of such discussions. **[59-60]** It makes consequential amendments to section 84 which provides for an offence relating to the administration of a voluntary assisted dying substance to another, in

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to initiate discussions about VAD within broader end-of-life conversations. By making it crystal clear that those who stand to benefit financially or personally from a VAD applicant's death cannot participate in the assessment or administration process, we reinforce the voluntary, considered, and independent nature of the decision.'

78 Part 6 of the *Voluntary Assisted Dying Act* 2017 makes general provision for review of specified decisions in the VCAT.

circumstances where that substance was dispensed for self-administration.[79] **[62]** Section 88 provides for an offence to knowingly make a false or misleading statement in a report or a form. Clauses 66 and 67 makes consequential amendments to the name of a practitioner administration form. **[66,67]** It substitutes section 89 to provide for offences in relation to contact persons.[80] **[68]** It makes consequential amendments in relation to the new authorisations and obligations and forms for nurse practitioners and registered nurses as a result of the new administering practitioner role. **[70]** It substitutes section 106 to provide for the circumstances in which the Board must provide information to a contact person. **[71]**

The Secretary to the Department of Health may approve training. **[73]** It inserts new section 115A which provides for the Secretary to the Department of Health to exempt an interpreter from particular requirements in certain circumstances and where satisfied of various matters. Note the Second Reading Speech:-

> Finally, the Bill introduces an exemption process to the requirement for interpreters to be specifically accredited by the national body. While the current requirement for an accredited interpreter is a vital safeguard, rigid requirements can unintentionally exclude some people. The National Accreditation Authority for Translators and Interpreters has acknowledged that there are no credentialled interpreters available for some small language groups. Although there has not yet been a case of a VAD applicant being unable to progress an application due to a lack of credentialled interpreters, this may happen in future.

It provides for a review of the Act at least once every 5 years. The first review must be commenced no later than 19 April 2030. A report of the review must be tabled in the Parliament. **[76]** The Governor in Council may make regulations for or with respect to prescribing forms for the effective operation of the Act. **[77]** It makes provision for transitional matters. **[78]** It repeals Schedule 1 which contains forms. **[79]**

Part 3 – Amendment of other Acts

It makes various consequential amendments to the *Drugs, Poisons and Controlled Substances Act* 1981. **[81,82]** It substitutes sections 36E(2) and 36EA(4). The amendments come into operation after the commencement of section 9 of this Bill. Note the Explanatory memorandum:-

> The effect of the amendment is that offence in respect of the management of a drug of dependence, Schedule 9 poison, Schedule 8 poison or a Schedule 4 poison does not apply to the management of the administration of a voluntary assisted dying substance to a person if they are the subject of a voluntary assisted dying permit, the substance has been prescribed to that person under the permit, and the person is accessing funded aged care services in a residential aged care home… The effect of this amendment is that the offence in respect of the administration of a drug of dependence, Schedule 9 poison, Schedule 8 poison or Schedule 4 poison in a residential aged care home does not apply to the administration of a voluntary assisted dying substance to a person if they are the subject of a voluntary

[79] Note the Explanatory memorandum:- 'Subclauses (1), (2) and (3) make consequential amendments as a result of the new permit and authorisation scheme, to account for the Bill's removal of the distinction between self-administration and practitioner administration permits, and to provide for the additional classes of health practitioner who may administer a voluntary assisted dying substance under a voluntary assisted dying permit. These amendments are not intended to affect the substantive operation of the offence. An offence against section 83 will remain limited to instances where an administering practitioner administers a voluntary assisted dying substance to a person who is the subject of a voluntary assisted dying permit, knowing that the practitioner is not authorised to do so under the permit, and intending to do so for the purpose of causing the person's death. New section 51C sets out what an administering practitioner is authorised to do under a voluntary assisted dying permit.'

[80] Note the Explanatory memorandum:- 'New section 89(2) is a new offence which provides that, in the event that a person who is the subject of a voluntary assisted dying permit revokes a self-administration decision, the person's contact person must return any voluntary assisted dying substance to a pharmacist at the dispensing pharmacy that the contact person knows was dispensed to the person prior to the revocation, and has not been returned by the person to a pharmacist at the dispensing pharmacy after the decision was revoked. The contact person must return the substance within 15 days of the revocation. This offence carries a penalty of level 8 imprisonment (12 months maximum) or 120 penalty units or both.'

assisted dying permit, the substance has been prescribed to that person under the permit, and the person is accessing funded aged care services in a residential aged care home.

It makes minor consequential amendments to the *Birth, Deaths and Marriages Registration Act* 1995 and the *Health Records Act* 2001.

Comments under the PCA

Rights and freedoms – Conscientious objection of registered health practitioners – Provision of information – Health service providers – Freedom of religion – Freedom of belief – (s 17(a)(i), PCA)

Conscientious objection of registered health practitioners

Existing section 7 of the VAD enshrines the right of registered health practitioners to conscientiously object to participating in or facilitating access to voluntary assisted dying. Clause [6] amends section 7(a) to provide it is subject to new section 7(2). **[6]** New section 7(2) requires a registered health practitioner with a conscientious objection to provide specified information to the person requesting information about or access to voluntary assisted dying. Amended section 7 is set out:-

> 7 Conscientious objection of registered health practitioners
>
> A registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to refuse to do any of the following—
>
> (a) subject to subsection (2), to provide information about voluntary assisted dying;
>
> (b) to participate in the request and assessment process;
>
> (c) to apply for a voluntary assisted dying permit;
>
> (d) to supply, prescribe or administer a voluntary assisted dying substance;
>
> (e) to be present at the time of administration of a voluntary assisted dying substance;
>
> (f) to dispense a prescription for a voluntary assisted dying substance.
>
> (2) If a registered health practitioner who has a conscientious objection to voluntary assisted dying refuses to provide information about voluntary assisted dying to a person requesting information about or access to voluntary assisted dying, the practitioner must—
>
> (a) advise the person that another registered health practitioner or a health service provider may be able to assist the person in relation to information about or access to voluntary assisted dying; and
>
> (b) give the person the information approved by the Secretary.

The Committee notes the Statement of Compatibility of the original Bill:-

> Section 14 of the charter recognises the right of every person to freedom of thought, conscience, religion and belief. These rights encompass people's right to hold their own views and to express them. The right is grounded in the principles of personal autonomy and self-determination. It also acknowledges that people may live their lives in accordance with their beliefs and that the state should not arbitrarily interfere with the expression of people's beliefs.
>
> The bill's provision for health practitioners to conscientiously object to participating in voluntary assisted dying recognises their right to freedom of thought, conscience, religion and belief. Clause 7 of the bill expressly provides that a registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to refuse:
>
> to provide information about voluntary assisted dying;
>
> to participate in the request and assessment process;
>
> to apply for a voluntary assisted dying permit;
>
> to supply, prescribe or administer a voluntary assisted dying substance;

to be present at the time of administration of a voluntary assisted dying substance;

to dispense a prescription for a voluntary assisted dying substance.

Whilst the bill recognises health practitioners' rights, health practitioners should also recognise their patients' right to freedom of thought, conscience, religion and belief and should not allow their own beliefs to interfere with their patients' access to lawful medical treatment. Although the bill does not require a mandatory referral if a health practitioner has a conscientious objection, it is not intended that practitioners may use their conscientious objection to impede people's access to voluntary assisted dying.

The Committee notes the Second Reading Speech of the original Bill:-

The bill recognises that people are entitled to have different values and beliefs and that these should never be imposed on others. Just as it will be a matter for an eligible person whether or not they access voluntary assisted dying, health practitioners will also be able to determine the extent of their involvement in voluntary assisted dying. Given the small number of people who will be eligible, the bill will not affect the practice of most health practitioners. In the limited circumstances where it does, a health practitioner may choose to conscientiously object to participating in any part of the process. While some organisations may opt not to provide voluntary assisted dying, it is expected that they will continue to support all of their patients by providing access to high-quality healthcare services…

The bill clearly sets out that a person must have decision-making capacity in relation to voluntary assisted dying and that they must make their request personally. A person will not be able to request voluntary assisted dying in an advance care directive, and if this request is made it will be invalid. Likewise, no-one else will be able to make a request on behalf of someone else — not a medical treatment decision-maker, or a family member or carer. The eligibility criteria will prevent many people who want to access voluntary assisted dying from doing so. This includes those who may want to make the request in advance of losing decision-making capacity, and those who have dementia. This is because having decision-making capacity throughout the entire process is an important safeguard in ensuring that a person's decision is voluntary, informed and enduring.

Request and assessment process

The bill sets out a clear and rigorous request and assessment process to provide clarity about the obligations for health practitioners who choose to be involved. The process also incorporates strong safeguards at each step to protect those who may be vulnerable to abuse.

The bill recognises that a request for information about voluntary assisted dying should not commence the request and assessment process. A person is likely to approach a health practitioner they know and trust to seek information about voluntary assisted dying and this discussion should occur as part of a broader discussion about the person's goals, care needs and treatment options. In this way existing therapeutic relationships are supported and the person is able to consider the information without feeling pressured to continue.

A person must make a clear and unambiguous request to a medical practitioner to access voluntary assisted dying. A person may withdraw from the process at any time. If a person decides not to continue, they may subsequently decide they want to request voluntary assisted dying but they will need to commence the request and assessment process from the beginning again.

Upon receiving a request, a medical practitioner must determine and inform the person whether they will accept or refuse the request within seven days. The medical practitioner may conscientiously object to participating or may choose not to accept the role because they do not meet the minimum requirements or would not be able to perform the duties. A medical practitioner must inform the person why they are not accepting the role of coordinating medical practitioner as it is important for the person to know the reason for that choice.

The Committee notes the Statement of Compatibility:-

Right to freedom of thought, conscience religion and belief (section 14)

Introducing the requirement that registered health practitioners who conscientiously object to participate in the voluntary assisted dying process or registered medical practitioners who refuse a first request for voluntary assisted dying, must provide to patients who request information about, or access

to, voluntary assisted dying, with pre-approved information about the service and advise patients that another registered health practitioner or health service provider may be able to assist the patient, may engage these practitioners' right to freedom of thought, conscience, religion and belief. This right is grounded in the principles of personal autonomy and self-determination and the principle that the State should not arbitrarily interfere with the expression of people's beliefs. However, while the freedom to hold a belief is considered absolute, the freedom to manifest that belief may be subject to reasonable limitations.

Having regard to the findings in the 5-Year Review discussed above, I consider the requirements imposed on practitioners to be a reasonable limitation on their freedom to manifest their objection to voluntary assisted dying. This is particularly so when having regard to the fact that practitioners who conscientiously object to voluntary assisted dying remain free to refuse to participate in the request and assessment process; apply for a voluntary assisted dying permit; supply, prescribe or administer a voluntary assisted dying substance; be present at the time of administration of a voluntary assisted dying substance, or dispense a prescription for a voluntary assisted dying substance.

Furthermore, when balancing practitioners' and patients' right to freedom of thought, conscience, religion and belief, and the patients' rights to personal autonomy and dignity and protection from inhuman treatment, I consider the limitation on practitioners' freedom to manifest their belief, by way of consciously objecting to voluntary assisted dying, to be minimal and demonstrably justified in a free and democratic society. This is especially so, when considering that health professionals should not allow their own beliefs to interfere with their patients' access to lawful medical treatment.

For these reasons, I am of the opinion that the right to freedom of thought, conscience, religion and belief, if limited by clauses 6 and 12 of the Bill, is reasonably justified.

The Committee notes the Second Reading Speech:-

Second, the Bill requires health practitioners who conscientiously object to VAD to provide minimum information to patients. This is intended to be contact information for the Statewide Care Navigator Service and the relevant Department of Health website – no more, no less. This approach does not compel anyone to participate in the VAD process, and we are not introducing any new offences. It simply ensures that patients are not left uninformed at a critical moment in their care. This approach respects and reaffirms the right to conscientious objection, but it also sends a clear message: no Victorian should be left without access to information about their options or obstructed from accessing legal care.

Note the Explanatory memorandum:-

Advising a person that another registered health practitioner or health service provider may be able to assist with information about or access to voluntary assisted dying does not mean that the registered health practitioner must refer the person to another registered health practitioner or health service provider.

The Committee notes the right of registered health practitioners to conscientiously object to participating in or facilitating access to voluntary assisted dying is retained. However, the amendment made by clause [6] requires registered health practitioners who may conscientiously object to participating in or facilitating access to voluntary assisted dying to provide specified information to patients. The Committee also notes registered health practitioners who may conscientiously object to participating in or facilitating access to voluntary assisted dying are not required to provide a mandatory referral for patients who may wish to access voluntary assisted dying to another registered health practitioner.

The Committee notes there may be differing views in relation to the mandatory provision of information in relation to voluntary assisted dying and the proposed amendments. The Committee notes the Statement of Compatibility and the Second Reading Speech. The Committee refers the matter to the Parliament.

Registered medical practitioners who refuse the first request

Existing section 13 provides a registered medical practitioner must accept or refuse the first request. Section 13(1) is set out: -

13 Registered medical practitioner must accept or refuse first request

(1) Within 7 days after receiving a first request from a person, the registered medical practitioner to whom the request was made must inform the person that the practitioner—

(a) accepts the first request; or

(b) refuses the first request because the practitioner—

(i) has a conscientious objection to voluntary assisted dying; or

(ii) believes that the practitioner will not be able to perform the duties of co ordinating medical practitioner due to unavailability; or

(iii) is required under subsection (2) to refuse the first request.

Clause [11] amends section 13. Amended section 13 is set out:-

13 Registered medical practitioner must accept or refuse first request

(1) Within 7 days after receiving a first request from a person, the registered medical practitioner to whom the request was made must inform the person that the practitioner—

(a) accepts the first request; or

(b) refuses the first request because the practitioner—

(i) has a conscientious objection to voluntary assisted dying; or

(ii) believes that the practitioner will not be able to perform the duties of co ordinating medical practitioner due to unavailability; or

(iii) is required under subsection (2) or (3) to refuse the first request.

~~(2) The registered medical practitioner must not accept the first request unless the practitioner—~~

~~(a) holds a fellowship with a specialist medical college; or~~

~~(b) is a vocationally registered general practitioner.~~

(2) The registered medical practitioner must not accept the first request unless the practitioner—

(a) holds specialist registration; or

(b) is a vocationally registered general practitioner.

(3) The registered medical practitioner must refuse the person's first request if the practitioner—

(a) is a family member of the person; or

(b) believes the practitioner is, or has knowledge of being, a beneficiary under the person's will; or

(c) benefits financially or in any other material way from the person's death (other than by receiving fees from the person for the provision of services as a registered medical practitioner).

Clause [12] inserts new section 13A.

13A Information to be provided if registered medical practitioner refuses first request

If the registered medical practitioner refuses the person's first request, the practitioner must—

(a) advise the person that another registered medical practitioner may be able to assist the person in relation to the person's first request; and

(b) give the person the information approved by the Secretary.

The Committee notes the amendments made by the insertion of new section 13A by clause [12] require registered health practitioners who refuse a person's first request for voluntary assisted dying to:-

- **advise the person that another registered medical practitioner may be able to assist the person in relation to the person's first request; and**
- **give the person the information approved by the Secretary.**

The Committee notes there may be differing views in relation to the relation to the mandatory provision of information in relation to voluntary assisted dying and the proposed amendments. The Committee notes the Statement of Compatibility and the Second Reading Speech. The Committee refers the matter to the Parliament.

Charter Issues

Freedom of expression – Registered health practitioner must advise that a registered medical practitioner is the most appropriate person with whom to discuss voluntary assisted dying

Summary: *The effect of clause 7 may be that a registered health practitioner who initiates a discussion about voluntary assisted dying with a person to whom they are providing services must advise that a registered medical practitioner is 'the most appropriate person with whom to discuss voluntary assisted dying'. The Committee will write to the Minister seeking further information.*

Relevant provision

The Committee notes that clause 7 inserts a new sub-section 8A(2) as follows:

> A registered health practitioner to whom this section applies may initiate a discussion about voluntary assisted dying with the person if—
>
> (a) the discussion is in the course of a discussion about end of life care; and
>
> (b) in doing so, the practitioner advises the person that the most appropriate person with whom to discuss voluntary assisted dying and any treatment or palliative care options available to that person is—
>
> (i) the registered medical practitioner who is responsible for the person's medical care; or
>
> (ii) any other registered medical practitioner.

New section 8A applies to a registered health practitioner who provides health services or professional care services to a person and is not a registered medical or nurse practitioner. A contravention of new sub-section 8A(2) 'is to be regarded as unprofessional conduct' under the Health Practitioner Regulation National Law.

The Second Reading Speech remarks:

> [T]he Bill permits registered health practitioners to initiate discussions about VAD within strict safeguards. Medical practitioners and nurse practitioners will be able to raise VAD as an option their patient can consider, provided they also discuss other available options, such as potential treatment and palliative care, and assist the person to access support. Other registered health practitioners, such as nurses and allied health professionals who may be part of a person's treating or care team, can also initiate discussions in the course of broader end-of-life discussions, but they must advise the person that a medical practitioner is the most appropriate person to speak to about VAD and other care options. This change removes the ethical dilemma faced by clinicians who feel constrained from providing complete information during critical conversations about end-of-life options. It will also improve awareness among communities with lower health literacy, ensuring that no one is denied the opportunity to consider VAD simply because they were unaware of their options.

The Committee observes the effect of clause 7 may be that a registered health practitioner (other than a registered medical or nurse practitioner) who initiates a discussion about voluntary assisted dying with a person to whom they are providing services must advise the person that a registered medical practitioner is 'the most appropriate person with whom to discuss voluntary assisted dying'.

Charter analysis

The Statement of Compatibility remarks:

> In Canada, the Supreme Court has held that a prohibition on voluntary assisted dying would contravene the 'right to life, liberty and security of the person'. The Court found that the right relates to a person's autonomy and quality of life and by denying a person the opportunity to determine the manner and timing of their death in response to serious pain and suffering, the person was denied their right to liberty and security. While section 21(1) of the Charter differs from the Canadian provision in that it does not include the word 'life', section 21(1), if directly considered by the Victorian courts, may be found to relate to the autonomy and quality of life of a person, rendering the withholding of an opportunity to determine the manner and timing of one's death in response to serious pain and suffering an infringement on the right to security.
>
> It follows that clause 7 of the Bill, which seeks to ensure that eligible persons are properly informed of their end-of-life options and provided the ability to make well informed choices about the manner and timing of their death, promotes their right to physical and psychological integrity, personal security, mental stability, autonomy and inherent dignity. Accordingly, the rights in section 13(a) and 21(1) of the Charter are, in my view, promoted by clause 7 of the Bill.

The Committee notes that the Explanatory Memorandum for the Bill to enact the Charter explained that Charter s. 21:

> is intended to operate in a different manner to article 7 of the Canadian Charter of Rights and Freedoms which guarantees the right to "life, liberty and security of the person" in that the Victorian provision is not intended to extend to such matters as a right to bodily integrity, personal autonomy or a right to access medical procedures.

The Committee also notes that the Statement of Compatibility may not address the Charter right of registered health practitioners to freedom of expression,[81] which may include advising that a non-practitioner (e.g. a family member or friend of a patient or a member of the patient's community) is the 'most appropriate person with whom to discuss voluntary assisted dying'.

The Explanatory Memorandum for clause 7 explains:

> New section 8A(2) provides that a registered health practitioner may only initiate a discussion about voluntary assisted dying with a person if the discussion about voluntary assisting dying is in the course of a discussion about end of life care and, in doing so, the practitioner advises the person that the more appropriate person to discuss treatment and palliative care options is—
>
> - the registered medical practitioner who is responsible for the person's care; or
> - any other registered medical practitioner.

The Committee observes that, (unlike clause 7, the Second Reading Speech and the Statement of Compatibility) the Explanatory Memorandum uses the term 'more' (rather than 'most') and refers only to discussions of 'treatment and palliative care options' (rather than 'voluntary assisted dying'.)

The Committee also observes that, (unlike the new sections 8 and 8A substituted by clause 7) existing s. 8, which prohibits a practitioner from initiating a discussion about voluntary assisted dying, provides

81 Charter s. 15(2).

that 'To avoid doubt', this prohibition 'does not apply to a health care worker who provides information about voluntary assisted dying to a person at the person's request.'

Relevant comparisons

The Committee notes that other Australian jurisdictions that permit registered health practitioners (who are not medical or nurse practitioners) to initiate discussions about voluntary assisted dying:

- in New South Wales, require the practitioner to advise the patient that the patient 'should discuss the palliative care and treatment options with the person's medical practitioner'.[82]
- in Tasmania, require the practitioner to inform the patient that 'a medical practitioner would be the most appropriate person with whom to discuss the voluntary assisted dying process'.[83]

The Committee observes that all Australian jurisdictions that prohibit some practitioners from initiating discussions about voluntary assisted dying provide that the prohibition does not apply to a practitioner 'who provides information about voluntary assisted dying to a person at the person's request'.[84]

Conclusion

The Committee will write to the Minister seeking further information as to whether or not clause 7:

- **bars a registered health practitioner who initiates a discussion about voluntary assisted dying from advising that a non-practitioner (e.g. a family member, friend or community member) is the most appropriate person with whom to discuss voluntary assisted dying;**
- **regulates what information a registered health practitioner may provide to a person at that person's request; and**
- **is compatible with registered health practitioners' Charter right to freedom of expression.**

Life – Eligibility for access to voluntary assisted dying – Medical condition that is not expected to cause death within weeks or months

Summary: *The effect of clause 8(2) may be that a person will be eligible to access voluntary assisted dying if they are diagnosed with a medical condition that is not expected to cause death within weeks or months but is expected to cause death within 12 months. The Committee will write to the Minister seeking further information.*

Relevant provision

The Committee notes that clause 8(2) amends existing para 9(1)(d) as follows:

> For a person to be eligible for access to voluntary assisted dying—
>
> …
>
> (d) the person must be diagnosed with a disease, illness or medical condition that –
>
> (i) is uncurable; and
>
> (ii) is advanced, progressive and will cause death; and

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82 *Voluntary Assisted Dying Act 2022* (NSW), s. 10(3)(b).

83 *End-of-life Choices (Voluntary Assisted Dying) Act 2021* (Tas), s. 17(3) (and see s. 5 ('voluntary assisted dying process')).

84 *Voluntary Assisted Dying Act 2022* (NSW), s. 10(4); *Voluntary Assisted Dying Act 2021* (Qld), s. 7(3); *Voluntary Assisted Dying Act 2021* (SA), s. 12(2); *End-of-life Choices (Voluntary Assisted Dying) Act 2021* (Tas), s. 17(4); *Voluntary Assisted Dying Act 2019* (WA), s. 10(4).

(iii) is expected to cause death within ~~weeks or months, not exceeding 6~~ 12 months; and

(iv) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable.

The Second Reading Speech remarks:

> [T]he Bill updates the prognosis requirement to a consistent 12 months for all applicants. Under the current Act, VAD applicants must be expected to die within 6 months, or 12 months for people with neurodegenerative conditions. However, determining prognosis is not an exact science, and many practitioners report being conservative in their estimates. As a result, a significant number of applicants have died, deteriorated, or lost decision-making capacity before completing the process. Moreover, it is discriminatory to permit access to applicants at different times based on the type of condition they will die from. Queensland's experience shows that a 12-month prognosis window reduces urgency, improves equity of access, and offers a more compassionate pathway for patients and families. This amendment will ensure that fewer people with terminal illness are forced to wait until the final weeks of life to seek relief from intolerable suffering.

The Committee observes that the effect of clause 8(2) may be that a person will be eligible to access voluntary assisted dying if they are diagnosed with a medical condition that is not expected to cause death within weeks or months but is expected to cause death within 12 months (and is incurable, advanced, progressive, will cause death, and is causing intolerable suffering.)

Charter analysis

The Statement of Compatibility remarks:

> Although the time prognosis requirement in section 9(1)(d)(iii) of the VAD Act is increased from 6 to 12 months, affecting the eligibility criteria for accessing voluntary assisted dying, the current 6-month limitation period has presented difficulties for medical practitioners in prognostication, negatively affecting the ability of persons who are otherwise eligible, to access voluntary assisted dying. Further, the new 12-month prognosis requirement aligns with the Ministerial Advisory Panel on voluntary assisted dying, which recommended a 12-month limit for all diseases, illnesses and conditions to ensure clarity and consistency with Victorian practice in defining the end of life. On this basis, I do not believe the safeguards built into the stringent eligibility criteria are in any way removed by this amendment.

The Committee notes that the Statement of Compatibility may not address clause 8(2)'s removal of the term 'within weeks or months' from existing sub-para 9(1)(d)(iii).

The Committee also notes that the Ministerial Advisory Panel on Voluntary Assisted Dying recommended that the eligibility criteria be that the medical condition 'is expected to cause death within weeks or months, but not longer than 12 months'.[85] The Panel's report remarked:[86]

> The Panel agrees with the Parliamentary Committee's recommendation that voluntary assisted dying be available to people who are at the end of life, however, considers that the words 'end of life (final weeks or months of life)' require further clarification. The Panel recommends that a person be diagnosed with a disease, illness or medical condition that is advanced, progressive and will cause death, and 'is expected to cause death within weeks or months, but not longer than 12 months'.
>
> In making this recommendation the Panel has taken into account feedback that the criterion of 'final weeks or months of life' as proposed by the Parliamentary Committee is somewhat unclear. During the consultation process it was apparent that people had interpreted the criterion in a range of ways, with some of the view that it meant a person had less than two months to live, while others thought it included those with 24 months to live. The Panel considers that this ambiguity is likely to lead to confusion among the community and medical practitioners who will need guidance as to the parameters around who may access voluntary assisted dying. For these reasons the Panel has determined that a

85 Ministerial Advisory Panel on Voluntary Assisted Dying, *Final Report*, Government of Victoria, 2017, Recommendation 2.

86 Ministerial Advisory Panel on Voluntary Assisted Dying, *Final Report*, Government of Victoria, 2017, pp. 71-72.

> timeframe should be included in the legislation. The Panel also considers that including a timeframe will prevent expansion of this criterion through practice.

The Committee observes that, whereas the Panel recommended the inclusion of a timeframe alongside the 'expected to cause death within weeks or months' criterion in part to 'prevent expansion of this criterion through practice', clause 8(2) may instead remove the 'expected to cause death within weeks or months' criterion as a condition for eligibility for access to voluntary assisted dying.

Relevant comparisons

The Committee notes that, when it was introduced, the Bill for the *Voluntary Assisted Dying Act* 2017 provided that a person is only eligible for access to voluntary assisted dying if the person is diagnosed with a medical condition that 'is expected to cause death within weeks or months, not exceeding 12 months', and that existing s. 9(4) provides:

> Despite subsection (1)(d)(iii), if the person is diagnosed with a disease, illness or medical condition that is neurodegenerative, that disease, illness or medical condition must be expected to cause death within weeks or months, not exceeding 12 months.

The Committee observes that each of these criteria are consistent with the criterion recommended by the Ministerial Advisory Panel, but may differ from clause 8(2) because they expressly specify that the medical condition 'must be expected to cause death within weeks or months'.

The Committee also notes that other Australian laws on eligibility for access to voluntary assisted dying specify that a medical condition:

- in the Australian Capital Territory, be such that 'the individual is approaching the end of their life… even if it is uncertain whether their relevant conditions will cause death within the next 12 months'.[87]
- in New South Wales, and Western Australia 'will, on the balance of probabilities, cause death' for neurodegenerative conditions 'within 12 months' and for other conditions 'within 6 months'[88]
- in Queensland, 'is expected to cause death within 12 months'[89], similarly to clause 8(2).
- in South Australia, for neurodegenerative conditions 'is expected to cause death within weeks or months, not exceeding 12 months' and for other conditions 'is expected to cause death within weeks or months, not exceeding 6 months',[90] similarly to existing ss. 9(1)(d)(iii) & 9(4).
- in Tasmania, 'is expected to cause the death of the person' for neurodegenerative conditions 'within 12 months' and for other conditions 'within 6 months', unless that State's Voluntary Assisted Dying Commission 'is satisfied that the prognosis of the person's relevant medical condition is such that the paragraph should not apply in relation to the person.'[91]

The Committee observes that only the Australian Capital Territory and South Australia expressly impose a condition that the person be 'approaching the end of their life' or be expected to die 'within weeks or months' and that only the Australian Capital Territory and Queensland allow a timeframe for non-neurodegenerative conditions that exceeds 6 months.

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87 *Voluntary Assisted Dying Act 2024* (ACT), ss. 11(3)(c) & (6).

88 *Voluntary Assisted Dying Act 2022* (NSW), s. 16(1)(d)(ii); *Voluntary Assisted Dying Act 2019* (WA), s. 16(1)(c)(ii).

89 *Voluntary Assisted Dying Act 2021* (Qld), s. 10(1)(a)(ii).

90 *Voluntary Assisted Dying Act 2021* (SA), ss. 26(1)(d)(iii) & (4).

91 *End-of-life Choices (Voluntary Assisted Dying) Act 2021* (Tas), ss. 6(1)(c) & (3).

Conclusion

The Committee will write to Minister seeking further information as to whether or not sub-clause 8(2)'s removal of the express requirement that a person's medical condition is 'expected to cause death within weeks or months' is compatible with the Charter's right to life.

Ministerial Correspondence

The Committee received a response from the Premier in relation to the Bill listed below.

The Committee thanks the Premier for the attached information.

The response is reproduced. Please refer to Appendix 3 for additional information.

Statewide Treaty Bill 2025

Hon Jacinta Allan MP

Premier of Victoria

1 Treasury Place
Melbourne, Victoria 3002 Australia
Telephone: +61 3 9651 5000

Gary Maas MP
Chair
Scrutiny of Acts and Regulation Committee
SARC@parliament.vic.gov.au

BMIN-251001547

Dear Mr Maas

Thank you for your letter of 20 October 2025, on behalf of the Scrutiny of Acts and Regulations Committee (Committee), detailing the Committee's consideration of the Statewide Treaty Bill (Bill). I thank the Committee for its considered comments and write in response to your request for further information and advice. My response is set out below in three key sections relating to the matters raised by the Committee on Part 5, Part 10 and in relation to the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* (Charter).

Further information regarding Part 5 of Bill

In relation to Part 5 of the Bill, the Committee has sought further information on two matters. The first requests further information as to where guidelines made by the First Peoples' Assembly will be able to be accessed. The second request for further information relates to the operation of the internal policies and processes that the First Peoples' Assembly is required to make in relation to its statutory appointment powers.

I confirm that the Bill does not specify requirements for publication or location of the guidelines and standards that the First Peoples' Assembly may issue under Part 5 of the Bill. These, as well as how advice on guidelines and standards may be provided to any person, are matters that the First Peoples' Assembly may make internal rules and policies in relation to, as specifically included at clause 51 of the Bill. The objects of the Part include to reflect the intention that Gellung Warl is generative and will continue to evolve. It is therefore appropriate to leave this matter to the First Peoples' Assembly's internal rules to allow for flexibility and evolution over time, which will ensure the processes remain fit for purpose. I note that the guidelines and standards are intended to be non-binding, differing from the substantive rules that the First Peoples' Assembly can make, for which the Bill does provide publication and access requirements.

In relation to the second request, as the Committee has noted, the First Peoples' Assembly must also make internal policies and processes in relation to their statutory appointment functions. The requirements at clause 53 of the Bill ensure that the First Peoples' Assembly establishes and applies procedures about how it exercises statutory appointment powers that meet comparable probity standards to those applied by the State. In practice, this means that the First Peoples' Assembly will develop a process for how it makes statutory appointments,

including how applications and decisions in the application process are made. It will also develop policies to guide applicants and decision-makers.

The 'internal policies and processes' are not the same as the 'guidelines and standards' made under Part 5. The language of 'internal policies and processes' is not intended as a term of art. The key requirement that clause 53 is directed to, is the requirement that the Assembly be able to demonstrate in respect of how it exercises statutory appointment powers, that risks assessments and probity checks are completed, conflicts of interest are identified and managed appropriately and merit-based selection processes are used.

Further information about Part 10 of the Bill

In relation to the functions of Nyerna Yoorrook Telkuna under Part 10 of the Bill, the Committee has sought further information as to where records such as those currently held by the State Library of Victoria may be located for historical, research or other purposes.

As the Committee observed, Nyerna Yoorrook Telkuna may hold and publish records of the Yoorrook Justice Commission transferred to it. The Bill does not specify processes for the publication of information by Nyerna Yoorrook Telkuna. The First Peoples' Assembly must make internal rules about the publication of truth-telling information, as required by item 5.7 of Schedule 1. In doing so, the First Peoples' Assembly must be guided by the truth-telling principles which include that truth-telling is to further promote and support the transformation of Victoria towards healing, reconciliation, understanding and truth. If the internal rules do not specify a location for publication, Nyerna Yoorrook Telkuna will determine the location and must also be guided by the principles.

The truth-telling principles, and purposes and functions of Nyerna Yoorrook Telkuna under the Bill all demonstrate that truth-telling will provide ongoing education and promote understanding and reconciliation. The records of the Yoorrook Justice Commission, held by Nyerna Yoorrook Telkuna, must be published in a way that supports these principles, purposes and functions.

Further information about the Charter

The Committee has also sought further information in relation to two matters under the Charter.

Disqualification due to spent conviction
The Committee's first question goes to the ambit of clauses 21(2)(j), 100(3)(j), 125(3)(j) and 231 and relates to whether the Bill, by precluding someone from membership of any of the Assembly, Nginma Ngainga Wara, Nyerna Yoorrook Telkuna or employment as the Treaty Authority Electoral Officer, on the basis of a disqualification "from managing corporations under Part 2D.6 of the *Corporations Act 2001 (Cth)* (Corporations Act)", in its absolute terms may capture a person who is disqualified from managing corporations but whose offence triggering that disqualification is a spent conviction. This could occur if an offence triggering disqualification under the Corporations Act has become spent by the operation of the *Spent Conviction Act 2021(Vic)* while the disqualification period under section 206B(2) of the Corporations Act continues. The Committee has asked whether that scenario amounts to discrimination under the *Equal Opportunity Act 2021 (Vic)* (EO Act) and the Charter.

Regarding spent convictions generally, I note that exclusion on the basis of an "offence" in the Bill has been narrowly drawn such that someone with a spent conviction could not be precluded purely on that basis. Under Section 21(2)(m) a person is prohibited from membership of the First Peoples' Assembly where they have been "sentenced to a term of imprisonment for an indictable offence and are subject to a parole order that includes a travel restriction condition."

Additionally, there is limited prospect that a disqualification period under the Corporations Act will run beyond the triggering offence becoming spent. The disqualification period under section 206B(2) of the Corporations Act is five years; from conviction in the absence of imprisonment or from the day of release in the event of a term of imprisonment. Section 9 of the *Spent Conviction Act 2021* sets a "conviction period", after which a conviction becomes spent by reason of section 8, of 5 years for a child or young offender sentenced under various legislation, and 10 years for any other person, with a separate regime for a "serious conviction" requiring application under Division 2. Those periods run the same length as, or longer than, the Corporations Act disqualification period for those offences.

Section 7 of the *Spent Conviction Act 2021* provides for a range of scenarios where convictions become "spent with immediate effect", including where the "conviction is not recorded by the court". There *could* be limited circumstances, for example where a person is convicted of an offence described by s206B(b)(ii), where the conviction might be spent by the operation of section 7 of the *Spent Conviction Act 2021*, but nevertheless give rise to a disqualification under s206B, where the disqualification period runs beyond the conviction becoming spent.

However, should those circumstances arise, the exclusion from membership or employment would be based on the disqualification under Part 2D.6 of the Corporations Act, rather than the offence that has subsequently become spent, and would not amount to spent conviction discrimination under the EO Act and Charter. As described in the Statement of Compatibility for the Statewide Treaty Bill 2025, "these provisions serve a protective rather than punitive purpose…and are limited to matters directly connected to integrity, competency and good governance, and does not extend to circumstances that could be considered arbitrary or punitive, such as disqualification solely on the basis of having low level summary convictions." These provisions are proportionate, considered and directed to guaranteeing the probity and integrity of those offices by mirroring equivalent provisions for similar entities applying that Corporations Act disqualification.

On whether section 142V of the *Aboriginal and Torres Strait Islander Act 2005* (Cth) would be a less restrictive means to achieve the purpose of the relevant clauses in the Bill, I note that subsection 142V(e) is more exclusionary on the basis of an offence than the equivalent provisions in the Bill, which qualify exclusion on the basis of imprisonment for an indictable offence with a travel restriction condition on a parole order. To the extent that section 142V(2) allows for membership after a shorter disqualification period from an offence than the Corporations Act regime, and therefore may be less restrictive, it would not achieve the protective purposes of these provisions, which are "directed to integrity, competency and good governance" on the basis of a narrow category of offences, and are not otherwise arbitrary or punitive.

Application of privilege to Assembly reports

In response to the Committee's second question on the Charter regarding reports made to the Parliament by the First Peoples' Assembly under clause 74, a report "given under

sub-clause 74(1)" does not enjoy absolute privilege by reason of an equivalent provision to section 199AAB(4) of the *Local Government Act 2020* (LGA).

I note the provisions of the LGA cited by the Committee are far more targeted than those cited from the Bill, in that they relate to a "Council's operations or to Council elections or electoral matters" or "any possible breach of the Local Government Act." Section 182 of the LGA provides for the functions of the Chief Municipal Inspector, including to investigate, report on and prosecute Councillor conduct. The prospect of adverse comments or findings being made under the reporting process at section 199AA are, for example, why the procedural arrangements at subsection (2) are necessary.

Gellung Warl does not have investigatory functions and the subject matter of the report under clause 74 is general and directed to "any matter it considers affects First Peoples". I note section 41 of the *First Nations Voice Act 2023* (SA), the equivalent section in that legislation, similarly does not extend absolute privilege over the content of any report submitted to Parliament under that section. Considering this context, equivalent provisions to section 199A of the LGA are not required, and the Charter right cited is unlikely to arise as a matter of statutory construction, having regard to the purpose of section 74.

I appreciate the Committee's consideration of the Bill and for the opportunity to respond. Do not hesitate to contact me if you wish to discuss these or other matters related to the Bill.

Yours sincerely

Hon Jacinta Allan MP
Member for Bendigo East
Premier

26/10/25

VICTORIA
State Government

Appendix 1
Index of Bills and Subordinate Legislation in 2025

BILLS (continued)

SUBORDINATE LEGISLATION

SUBORDINATE LEGISLATION (continued)

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
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
Labour Hire Legislation Amendment (Licensing) Bill 2025	14
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

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

(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*

(vi) inappropriately delegates legislative power

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

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

Section 17(b)

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

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	9 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	12 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		14 of 2025
Labour Hire Legislation Amendment (Licensing) Bill 2025	Industrial Relations		14 of 2025
State Taxation Further Amendment Bill 2025	Treasurer		14 of 2025
Transport Legislation Amendment Bill 2025	Public and Active Transport		14 of 2025
Voluntary Assisted Dying Amendment Bill 2025	Health		14 of 2025