

No. 9 of 2009

Tuesday, 11 August 2009

On the

Cemeteries and Crematoria Amendment
Bill 2009

Courts Legislation Amendment (Judicial
Resolution Conference) Bill 2009

Local Government Amendment
(Conflicting Duties) Bill 2009

Occupational Health and Safety
Amendment (Employee Protection)
Bill 2009

Racing Legislation Amendment (Racing
Integrity Assurance) Bill 2009

Water Amendment (Non Water User
Limit) Bill 2009

Table of Contents

	Page Nos.
Alert Digest No. 9 of 2009	
Cemeteries and Crematoria Amendment Bill 2009	1
Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009	3
Local Government Amendment (Conflicting Duties) Bill 2009	6
Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009	12
Water Amendment (Non Water User Limit) Bill 2009	13
Ministerial Correspondence	
Occupational Health and Safety Amendment (Employee Protection) Act 2009	15
Appendix	
1 – Index of Bills in 2009	19
2 – Committee Comments classified by Terms of Reference	21
3 – Ministerial Correspondence	23

Glossary and Symbols



- ‘**Article**’ refers to an Article of the International Covenant on Civil and Political Rights;
- ‘**Assembly**’ refers to the Legislative Assembly of the Victorian Parliament;
- ‘**Charter**’ refers to the Victorian *Charter of Human Rights and Responsibilities Act 2006*;
- ‘**child**’ means a person under 18 years of age;
- ‘**Committee**’ refers to the Scrutiny of Acts and Regulations Committee of the Victorian Parliament;
- ‘**Council**’ refers to the Legislative Council of the Victorian Parliament;
- ‘**court**’ refers to the Supreme Court, the County Court, the Magistrates’ Court or the Children’s Court as the circumstances require;
- ‘**Covenant**’ refers to the International Covenant on Civil and Political Rights;
- ‘**human rights**’ refers to the rights set out in Part 2 of the Charter;
- ‘**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 (currently one penalty unit equals \$113.42).
- ‘**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.

Useful provisions

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 imitation; 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.*

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.



Terms of Reference

Parliamentary Committees Act 2003

17. Scrutiny of Acts and Regulations Committee

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

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

The Committee has considered the following Bills –

Cemeteries and Crematoria Amendment Bill 2009
Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009
Local Government Amendment (Conflicting Duties) Bill 2009
Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009
Water Amendment (Non Water User Limit) Bill 2009

The Committee notes the following correspondence –

Occupational Health and Safety Amendment (Employee Protection) Bill 2009



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) presented to the Parliament. The Committee does not make any comments on the policy aspects 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 been 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.

Alert Digest No. 9 of 2009

Cemeteries and Crematoria Amendment Bill 2009

Introduced	28 July 2009
Second Reading Speech	29 July 2009
House	Legislative Assembly
Member introducing Bill	Hon. Daniel Andrews MLA
Portfolio responsibility	Minister for Health

Background

The Bill amends the *Cemeteries and Crematoria Act 2003* to further provide for the management and constitution of cemetery trusts.

Extracts from the Second Reading Speech –

Currently all Victorian cemetery trusts are governed by volunteers. All trusts have the same statutory governance framework, regardless of the size and scale of their operations.

...

The Bill creates two classes of cemetery trusts. These are described as class A trusts and class B trusts. Class A trusts will have the enhanced statutory functions and accountabilities set out in the Bill.

The overwhelming majority of trusts will be class B trusts. These trusts will continue to be governed by volunteers and the statutory framework applicable to them will be essentially unchanged. However, the Bill provides enhanced powers for the Secretary of the Department of Human Services to commission audits of cemetery trusts. These powers will apply to class A and class B trusts alike.

...

These trusts [class A] will have a statutory role of providing assistance and guidance on request to class B trusts in their designated 'catchments'. This will formalise the role that is currently played by the larger trusts in relation to the smaller trusts in their areas.

...

The Bill requires class A trusts to establish community advisory committees. The Bill gives the secretary of the Department the capacity to make guidelines about the membership, composition and procedure of these committees.

... the Bill requires the trusts, in making appointments to these committees, to give preference to individuals who are not stonemasons or funeral directors.

Class A trusts must prepare and submit annual plans and strategic plans to the secretary of the department.

...

Mechanisms for the establishment of class A trusts

The Bill will establish three new class A trusts. These new entities will be the successors in law of certain existing cemetery trusts which are being reorganised.

Secondly, the Bill will convert the existing Bendigo, Ballarat and Geelong cemetery trusts into class A trusts, without making changes to the structure or composition of those legal entities.

...

The Bill also enables the establishment of further class A trusts and the conversion of class B trusts into class A trusts (and vice versa), in the future. Conversion can occur where, in the opinion of the responsible minister, it is in the public interest, having regard to matters such as the size or scale of the operations of a cemetery trust and the communities served by the trust.

The Committee makes no further comment.

Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009

Introduced	28 July 2009
Second Reading Speech	28 July 2009
House	Legislative Assembly
Member introducing Bill	Hon. Rob Hulls MLA
Portfolio responsibility	Attorney-General

Background

The Bill amends the *Supreme Court Act 1986*, the *County Court Act 1958*, the *Magistrates' Court Act 1989* and the *Children, Youth and Families Act 2005* to —

- clarify that judicial immunity applies to judges, associate judges and magistrates when carrying out judicial resolution conferences; and
- provide for the conduct of those conferences by judges, associate judges and magistrates.

The amendments have the objective of supporting the respective courts in the practice of non-determinative appropriate dispute resolution ('ADR') processes in civil proceedings.

Note: From the Statement of Compatibility – *The Bill aims to support the conduct of ADR processes by judicial officers. The Bill will provide for the confidentiality of ADR processes conducted by judicial officers, and confirm that judicial immunity extends to actions undertaken by judicial officers conducting ADR. The Bill provides a rule-making power to the courts to establish rules for the practice and procedure of judicial ADR.*

The various forms of ADR are defined throughout the Bill as including mediation, early neutral evaluation, settlement conference, and conciliation. **[3, 7, 12 and 16]**

There are provisions for confidentiality where a judicial resolution conference is ordered or directed in any proceeding in a Court other than a criminal proceeding. **[5, 9, 15 and 18]**

Provisions confirm that a Judge of a Court, an Associate Judge or Magistrate is not compellable to give evidence in any proceeding, whether civil or criminal, of anything said or done or arising from the conduct of the judicial resolution conference. **[5, 9, 15 and 18]**

Provisions confirm that judicial immunity applies to a Judge, an Associate Judge or Magistrate presiding over a judicial resolution conference. **[5, 9, 15 and 18]**

Additional powers are inserted for the courts to make Rules of Court with respect to judicial resolution conferences, including with respect to the practice and procedure of judicial resolution conferences. **[6, 11, 14 and 19]**

Charter report

Fair hearing – Restrictions on evidence and compulsion of witnesses – Meaning of restriction – Whether reasonable limit

Summary: Clauses 5, 9, 15 and 18 may engage the Charter right of litigants in proceedings held after a judicial resolution conference to a fair hearing. The terms of the limit on the compellability of judicial officers appear to be broader than their intended purpose. The Committee will write to the Attorney-General seeking further information.

The Committee notes that clauses 5¹, 9², 15³ and 18⁴ provide that evidence relating to judicial resolution conferences is 'not admissible at the hearing of' various proceedings and that judicial officers are 'not compellable to give evidence in any proceeding' about aspects of judicial resolution conferences.

The Statement of Compatibility remarks that the Bill does not engage the right to a fair hearing because judicial resolution conferences aren't civil proceedings for the purposes of Charter s. 24(1). However, **the Committee observes that the clauses operate in subsequent civil and criminal proceedings and therefore may engage the Charter right of litigants in those proceedings to a fair hearing.**⁵

The Committee notes that each of the clauses provides that judicial officers are:

not compellable to give evidence in any proceeding, whether civil or criminal, of anything said or done or arising from the conduct of the judicial resolution conference.

The Explanatory Memorandum states that these provisions are:

intended to prevent [judicial officers] being compellable to give evidence intended to assist in the interpretation of the terms of a written agreement arising out of a judicial resolution conference, and signed by parties at the conclusion of a judicial resolution conference.

However, **the terms of the limit on the compellability of judicial officers appear to be broader than this purpose.**

In particular, the Committee observes that:

- The provisions are not limited to judicial officers who preside over the judicial resolution conference.
- The words 'said or done' are at large. In particular, in contrast to the Bill's provisions on admissibility of evidence, the words are not limited to anything 'said or done *by any person in the course of the conduct of the judicial resolution conference.*'
- The meaning of the phrase 'anything arising from the conduct of the judicial resolution conference' is not clear. Many things may arise from a conference, including proceedings subsequent to a judicial resolution conference, which would ordinarily be subject to s. 16(2) of the *Evidence Act 2008*⁶ (a narrower restriction on compellability.)
- The bar on judicial compellability inserted by clauses 5, 9, 15 and 18 for judicial conference proceedings is absolute. There is therefore no mechanism for limiting any capricious effect of the clauses. This contrasts, for example, with s. 16(2) of the *Evidence Act 2008* (whose general bar on judicial compellability in proceedings is subject to a court giving leave.)

For example, the provisions would bar a judge alleged to have taken a bribe from one of the parties being compelled to testify at civil proceedings aimed at overturning an allegedly corrupt settlement and at criminal proceedings against the allegedly corrupt party.

¹ Inserting a new section 24B into the *Supreme Court Act 1986*.

² Inserting a new section 41 into the *County Court Act 1958*.

³ Inserting a new section 108B into the *Magistrates Court Act 1989*.

⁴ Inserting a new section 527A into the *Children, Youth and Families Act 2005*.

⁵ Charter s. 24(1) provides that: 'A person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.'

⁶ Section 16(2) of the *Evidence Act 2008* provides that 'A person who is or was a judge in an Australian or overseas proceeding is not compellable to give evidence about that proceeding unless the court gives leave.'

The Committee will write to the Attorney-General seeking further information as follows:

- 1. Should the limits on compellability in clauses 5, 9, 15 and 18 be restricted to judicial officers who preside over a judicial resolution conference?**
- 2. Should the words 'said or done' be qualified so that they are restricted to what is said or done by any person in the course of conduct of the judicial resolution conference?**
- 3. What is the meaning of the phrase 'anything arising from the conduct of the judicial resolution conference'?**
- 4. Do clauses 5, 9, 15 and 18 limit the Charter right to a fair hearing of litigants in future civil and criminal proceedings?**
- 5. If so, is a leave requirement like the one in s. 16(2) of the Evidence Act 2008 a less restrictive alternative reasonably available to achieve the purpose of the bar on judicial compellability inserted by clauses 5, 9, 15 and 18?⁷**

Pending the Attorney-General's response, the Committee draws attention to clauses 5, 9, 15 and 18.

The Committee makes no further comment.

⁷ Charter s. 7(2) provides that: '(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... (e) any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.'

Local Government Amendment (Conflicting Duties) Bill 2009

Introduced	28 July 2009
Second Reading Speech	29 July 2009
House	Legislative Assembly
Member introducing Bill	Hon. Richard Wynne MLA
Portfolio responsibility	Minister for Local Government

Background

The purpose of this Bill is to amend the *Local Government Act 1989* (the 'Act') to prevent Councillors from having conflicting duties arising from specified offices or positions with other publicly elected bodies.

The Bill inserts new sections 28A and 28B in the Act.

New section 28A prevents a person from becoming or continuing to be a Councillor or nominating as a candidate at a Council election if the person is at the time either:

- a member of the Parliament of the Commonwealth of Australia, or of the Parliament of Victoria or of another State or a Territory of the Commonwealth; or
- employed as a Ministerial officer, a Parliamentary adviser or an electorate officer (or corresponding position) by or for a member of the Parliament of the Commonwealth of Australia, or of the Parliament of Victoria or of another State or a Territory of the Commonwealth; or
- a Councillor of another Council in Victoria or a Councillor (or corresponding position) of another Council in another State or a Territory of the Commonwealth.

New section 28A also provides that a person who is employed as a Ministerial officer, a Parliamentary adviser or an electorate officer by or for a member of the Parliament can nominate as a candidate and be declared elected at a Council election if that person has taken leave from their specified office or position and does not perform any of the duties of that office or position for the duration of the election period. However, such a person cannot take the oath of office after being declared elected if that person continues to hold that specified office or position.

New Section 28B provides transitional arrangements for persons who are Councillors immediately before the commencement of the provisions in the Bill.

Rights and freedoms – Representative government – Disqualification from holding office – Whether disqualification reasonable and proportionate limitation to right to seek and continue to hold elected office

The Committee notes that the provisions in new section 28A will limit the right to hold or seek elected office as a local government councillor.

The Committee also notes that there is an entrenched guarantee (by referendum) of continued local government as a distinct and essential tier of government consisting of democratically elected Councils in Part IIA (sections 74A and 74B) of the Constitution Act 1975.

The Committee observes that the Local Government Act 1989 currently provides for a series of qualifications and disqualifications in sections 28 and 29, amongst them that a councillor must live within the boundary of the municipal council and must not be a Council employee.

In regards to other limitations in respect to elected office the Committee observes that there are limitations applying to Members of State Parliament under the Constitution Act 1975⁸. For example, a Member must not be involved in any State government contract or hold any office of profit under the Crown (sections 55 and 58, Constitution Act 1975).

The Committee observes that some councillors elected before the commencement of the new disqualifying provisions may be required to resign their office within 7 days of the commencement of the Act and that this may be considered to have retrospective effect on their prior election to office. The Committee further discusses this issue in the Charter Report below.

Subject to the issues raised in the Charter Report below, the question whether the provisions are a justifiable limitation to representative local government in all the circumstances is a matter for the Parliament to consider and determine.

Charter report

Public affairs – Disqualification of political employees from being Councillors – Discrimination on the basis of political belief or activity – Whether reasonable limit – Adequacy of Statement of Compatibility – Less restrictive alternatives

Summary: Clause 3, by disqualifying Ministerial employees, Parliamentary advisors and electorate officers from becoming or remaining a Councillor may limit the Charter right of such employees ‘without discrimination, to participate in the conduct of public affairs, directly’, including discrimination on the basis of political activity. The Committee will write to the Minister seeking further information.

The Committee notes that clause 3, inserting a new section 28A(1)(b) into the *Local Government Act 1989*, disqualifies employees of Ministerial officers, Parliamentary advisers or electorate officers of any Australian parliamentarian from becoming or remaining a Councillor. The Committee considers that clause 3 may limit the Charter s. 18(1), which provides:

Every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

The Statement of Compatibility remarks:

Similar restrictions are provided under section 49 of the Constitution Act 1975 (Victoria) which prevents a person from being a member of the Victorian Parliament, if they also hold any office or place of profit under the Crown or are in any manner employed in the public service of Victoria or the commonwealth.

Similarly the Bill provides that eligibility requirements apply to persons who stand for council election. While the requirements in this case are less restrictive... they are equally necessary.

There are good reasons to ensure a clear separation between a person’s role as a candidate for election and their position working for a member of Parliament. Significant potential exists for conflicts between a person’s obligations to the member they work for and their ability to freely represent themselves and their policies to their local community as a candidate for the officer of councillor.

In addition, people working for members of Parliament can have access to public resources and information not available to other candidates that may be used to benefit an election

⁸ ss. 29, 36, 44, 47, 49, 53-55, 57-61 and 61A.

campaign.... Public resources and information should not be able to be used in a way that undermines key democratic principles or create a perception that municipal elections are not conducted in a fair manner.

The Committee observes that:

- **Under the Charter, ‘discrimination’ extends to discrimination on the basis of ‘political belief or activity’ or on the basis of ‘personal association’ with someone who has a ‘political belief or activity’.**⁹ These terms include ‘engaging... in a lawful political activity’.¹⁰ By limiting the disqualification to employees of politicians, rather than to all public servants (as in s. 49 of the *Constitution Act 1975*), new section 28A(1)(b) may engage the anti-discrimination aspect of the Charter’s right to participate in public affairs.
- In contrast to elected officers in the state and federal Parliaments, Councillors are not remunerated on a full-time basis, but rather are presently paid between \$6800 and \$24200 per annum, depending on the category of the council and decisions made by each council.¹¹ So, new section 28A(1)(b) may create a significant disincentive to participation in local councils by political employees.
- The United Nations Human Rights Committee has held, in relation to the right to participate in public affairs in the *International Covenant on Civil and Political Rights*:

*If there are reasonable grounds for regarding certain elective officers as incompatible with tenure of specific positions, (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights [to vote and to be elected].*¹²

While the Committee appreciates that new section 28A(1)(b) implements a recommendation of the Ombudsman arising from a recent inquiry, it nevertheless observes that even measures to implement compelling government interests must satisfy Charter s. 7(2), which provides:

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.*

In particular, overseas courts applying similar standards have held that ‘there must be proportionality between the effects of the measures responsible for limiting the Charter right or freedom, and the objective which has been identified as of sufficient importance.’¹³

In addition, the Committee notes that the Statement of Compatibility’s analysis of the factor listed in Charter s. 7(2)(e) simply states that: ‘There are no less restrictive means reasonably

⁹ See *Equal Opportunity Act 1995*, s. 18, which permits these positions to be filled on the basis of someone’s political belief and activity.

¹⁰ *Equal Opportunity Act 1995*, ss. 4 and 6.

¹¹ *Victoria Government Gazette*, G48, 27 November 2008, p. 2787, item 5.

¹² Human Rights Committee, *General Comment 25* (57), General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, Adopted by the Committee at its 1510th meeting, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).

¹³ *R v Oakes*, [1986] 1 SCR 103, [70]

available to achieve the intended purposes.' The Committee considers that a mere assertion that there are no reasonably available alternatives does not satisfy the Charter's requirement that the Statement of Compatibility state how a bill is compatible with human rights.¹⁴ Rather, whenever a provision in a Bill limits a Charter right, the Statement should explain why there are no alternatives or why any alternatives are not reasonably available.¹⁵

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

- 1. Whether or not new section 28A(1)(b), by singling out political employees for disqualification as Councillors, limits the Charter right of Ministerial employees, parliamentary advisers and electoral officers to participate directly in public affairs without discrimination on the basis of political activity; and**
- 2. If so, whether or not new section 28A(1)(b) is a reasonable limit on that right according to the test set out in Charter s. 7(2).**
- 3. What alternatives to new section 28A(1)(b) were considered? Why are those alternatives not reasonably available?**

Pending the Minister's response, the Committee draws attention to new section 28A(1)(b).

Guarantee of the will of electors – Privacy – Disqualification of sitting councillors – Whether retrospective – Seven day grace period – Whether reasonable limit – Whether arbitrary interference

Summary: New section 28B may partially annul the results of the 2008 local government elections, by forcing elected Councillors out of office on the basis of a disqualification ground that did not exist when those elections were held. The Committee considers that this section may be incompatible with the Charter right of electors in the 2008 local government elections to a guarantee of the free expression of their will. The 7 day grace period provided for by new section 28B may be an unreasonable interference with the privacy of Councillors who are employed as political advisers. The Committee will write to the Minister seeking further information.

The Committee notes that clause 3, inserting a new section 28B into the *Local Government Act 1989*, provides that sitting Councillors go 'out of office' seven days after the commencement of the Bill if they continue to hold an office listed in new section 28A. New section 28B therefore ensures that the new ground of disqualification set out in new section 28A applies to Councillors elected prior to the commencement of the Bill.

The Committee considers that new section 28B may engage the Charter s. 18(2)(a), which provides:

- (2) *Every eligible person has the right...*
 - (a) *to vote and be elected at periodic State and municipal elections that guarantee the free expression of the will of the electors...*

¹⁴ Charter s. 28(3)(a) provides that 'A statement of compatibility must state... whether, in the member's opinion, the Bill is compatible with human rights and, if so, how it is compatible'.

¹⁵ The Municipal Association of Victoria has stated that 'Further advice is pending on... whether alternative measures could be proposed to Government to better address the conflict of duty issues raised by the Ombudsman.' See MAW Members Brief at <[http://www.mav.asn.au/CA256C320013CB4B/Lookup/mbrbriefcrspoladv/\\$file/Members%20Brief%20-%20Ban%20on%20councillors%20working%20as%20political%20advisers%20-%20July%202009.pdf](http://www.mav.asn.au/CA256C320013CB4B/Lookup/mbrbriefcrspoladv/$file/Members%20Brief%20-%20Ban%20on%20councillors%20working%20as%20political%20advisers%20-%20July%202009.pdf)>

The Statement of Compatibility remarks:

It should be noted that the amendment does not have a retrospective application since it does not affect their previous service as a councillor.

However, the Committee observes **that new section 28B may partially annul the results of the 2008 local government elections, by forcing elected Councillors out of office on the basis of a disqualification ground that did not exist when those elections were held.**

The Committee considers that the Charter right of '[e]very eligible person... to... be elected' is necessarily limited by a law that changes the definition of 'eligible person' and applies that change to an already elected person. The Charter right of voters to 'municipal elections that guarantee the free expression of the will of the electors' is necessarily limited by a law introduced after the election that prevents a person who was elected to office from continuing to hold that office until the next general election. A by-election to fill such a vacancy may not provide a substitute guarantee, as it will be based on a different electoral roll, different political circumstances and, most importantly, a different list of candidates that excludes the previously elected candidate.

The Statement of Compatibility remarks:

It is important the councillors elected in the November 2008 general elections are subject to these eligibility requirements at they can equally have conflicting duties during their term as councillor.

The Committee observes that the European Court of Human Rights has held, in relation to similar political rights in Europe, that:

once the wishes of the people have been freely and democratically expressed, no subsequent amendment to the organisation of the electoral system may call that choice into question, except in the presence of compelling grounds for democratic order.¹⁶

In that case, Greece's Constitution had been amended to bar parliamentarians from professional activities, with the result that a parliamentarian elected prior to the amendment was removed from office on the ground that he had continued to act as a lawyer. The Court held that this action 'deprived his constituents of the candidate whom they had chosen freely and democratically to represent them for four years in Parliament, in breach of the principle of legitimate expectation.' These findings were made despite the proposal for disqualification having been mooted prior to the election and the availability of an eight day grace period for the member to cease his professional activities. The Court observed that the Greek Government 'have not advanced any ground of pressing significance to the democratic order that could have justified the immediate application of the absolute disqualification.'¹⁷

The Committee considers that new section 28B may be incompatible with the Charter right of electors in the 2008 local government elections to a guarantee of the free expression of their will.

The Committee is additionally concerned that **the 7 day grace period provided for by new section 28B may be an unreasonable interference with the private lives of Councillors who are employed as political advisers.** A decision to retain or abandon a job or career is a significant personal decision that requires time for consideration, consultation with affected people and alternative sources of income. Although sitting Councillors are doubtless currently aware of the Bill, the Committee considers that they should not be expected to take action in response until after the Bill has been enacted. Because the Bill commences on royal assent, such Councillors will have only one week to choose between their elected

¹⁶ *Lykourazos v Greece* [2006] ECHR 1176, [52]

¹⁷ *Ibid* [57]

position and their profession. As some members of the European Court of Human Rights have observed, such a constrained choice between public and private careers may limit the right to privacy.¹⁸ The Committee observes that new section 28B may be an arbitrary limit on employees' privacy in the case of employees who are legally required to give more than seven days notice before they resign from their employment.

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

- 1. Whether or not new section 28B limits the Charter right to electors in the 2008 local government elections to a guarantee of their will.***
- 2. If so, whether or not new section 28B is a reasonable limit on that Charter right according to the test in Charter s. 7(2).***
- 3. Whether a lengthier grace period than 7 days would be an alternative reasonably available to achieve the purpose of new section 28B that is less restrictive of the rights of Councillors against arbitrary interference in their privacy.***
- 4. Whether new section 28B may operate arbitrarily in the case of employees who are legally required to give more than seven days notice before they resign from their employment.***

Pending the Minister's response, the Committee draws attention to new section 28B.

The Committee makes no further comment.

¹⁸ *Ibid*, partially dissenting opinion of Judge Spielmans, (addressing an issue not considered by the majority.) Charter s. 13(a) provides that 'A person has the right... not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.'

Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009

Introduced	28 July 2009
Second Reading Speech	29 July 2009
House	Legislative Assembly
Member introducing Bill	Hon. Rob Hulls MLA
Portfolio responsibility	Minister for Racing

Background

The Bill amends the *Racing Act 1958* to –

- establish the position of Racing Integrity Commissioner to oversee integrity procedures and act in a ombudsman like role for the Victorian racing industry. **[5]**
- establish new racing appeals and disciplinary boards for Greyhound Racing Victoria and Harness Racing Victoria based on the same model in place for thoroughbred racing. All three Boards will be administered by a common Registrar. **[7 and 8]**
- abolish the Racing Appeals Tribunal which currently hears appeals of decisions from the existing disciplinary bodies and confers this jurisdiction on the VCAT. **[9]**

The Bill also amends the *Gambling Regulation Act 2003* to repeal provisions banning the transmission of betting odds from racecourses during a race meeting. **[10]**

The Committee makes no further comment.

Water Amendment (Non Water User Limit) Bill 2009

Introduced	28 July 2009
Second Reading Speech	29 July 2009
House	Legislative Assembly
Member introducing Bill	Hon. Tim Holding MLA
Portfolio responsibility	Minister for Water

Purpose

The Bill amends the *Water Act 1989* to remove the non-water user limit from the Act. The limit is a legislative cap on the volume of water shares that can be owned if those shares are not associated with a parcel of land and is currently restricted to 10% of the total volume of water in a water system.

Background

Extract from the Statement of Compatibility –

The Water Act 1989 contains a non-water user limit which restricts the amount of water shares in each water system that can be owned without being associated with land. The non-water user limit is currently 10 per cent of the sum of the maximum volumes of entitlement for water shares of a class and of a particular reliability in a water system.

The non-water user limit was introduced to allay concerns expressed by some people that, following the 'unbundling' of water entitlements to improve water trading, non-irrigators, or so called 'water barons', would enter the market and drive up the water price.

The government reviewed the non-water user limit in February 2009 in line with its National Water Initiative obligation to ensure that the limit did not become a barrier to trade. Key findings of the review were that the non-water user limit, once reached, would constitute a barrier to trade and that fears of 'water barons' significantly entering the market had not eventuated in jurisdictions without a non water user limit.

The Committee makes no further comment.

Ministerial Correspondence

Occupational Health and Safety Amendment (Employee Protection) Act 2009

The Occupational Health and Safety Amendment (Employee Protection) Bill 2008 was introduced into the Legislative Assembly on 2 December 2008 by the Hon. Rob Hulls MLA. The Committee considered the Bill on 2 February 2009 and made the following comments in Alert Digest No. 1 of 2009 tabled in the Parliament on 3 February 2009.

Committee's Comments

Charter report

Presumption of innocence – Extension of existing criminal offence that places an onus of proof on defendants – Not addressed in statement of compatibility

Summary: Clauses 4(1) & (2) engage the Charter's presumption of innocence. The statement of compatibility does not address these clauses. The Committee will write to the Minister seeking further information as to whether and how the clauses are compatible with the Charter.

The Committee notes that clauses 4(1) & (2) extend the scope of an existing criminal offence in s.76 of the Occupational Health and Safety Act 2004. Section 76 makes it an offence for an employer to take various actions against employees or prospective employees because of their role in relation to health and safety. Clauses 4(1) & (2) extend the offence to cover employees who assist, give information to or raise issues or concerns with an authorised representative of a registered employee organisation.

*Section 77 provides that, in proceedings under s.76, defendants bear the onus of proof on the issue of the reasons for their conduct. **The Committee therefore considers that clauses 4(1) & (2) may limit the Charter right of defendant's charged with an offence to be presumed innocent of that offence until proved guilty.***

*Although the Statement of Compatibility addresses other clauses of the Bill that impose a similar reverse onus on civil defendants (who do not have a right to be presumed innocent), **the Statement does not address whether and how clauses 4(1) & (2) (which apply to criminal defendants) are compatible with the Charter.** The Committee observes that, given the introduction of parallel civil proceedings for discrimination against employees on health and safety grounds, the usual justification for reverse onuses in regulatory offences – that they are necessary to ensure compliance with the regulations – may no longer apply. An evidential burden on the defendant may therefore be a 'less restrictive means reasonably available to achieve the purpose of' the existing offence.*

The Committee will write to the Minister seeking further information about whether and how the reverse onus in s. 77 is compatible with the Charter. Pending the Minister's response, the Committee draws attention to clauses 4(1) & (2).

The Committee makes no further comment.

Minister's response

I refer to your correspondence of 4 February 2009 to the Attorney-General regarding comments made by your Committee in Alert Digest No.1 of 2009 regarding the

Occupational Health and Safety Amendment (Employee Protection) Bill 2008 (the OHS Amendment Bill).

The Committee suggests that clauses 4(1) and (2) of the OHS Amendment Bill extend the scope of existing criminal anti-discrimination provisions in the Occupational Health and Safety Act 2004 (the OHS Act) to which a reverse onus of proof applies, and that this engages the Charter of Human Rights and Responsibilities Act 2006. .

I am advised that the amendments to section 76(2) of the OHS Act do not impact on any rights under the Charter of Human Rights and Responsibilities Act 2006 that are not already engaged by section 76 of the OHS Act. The criminal anti-discrimination provisions in the OHS Act include a number of 'protected' employee activities.

Broadening section 76(2) to include an employee interacting with an authorised representative of a registered employee organisation (ARREO) does not change the intent of the occupational health and safety (OHS) discrimination provisions. These provisions aim to protect employees when proactively raising workplace health and safety concerns and ARREOs, with their specific OHS functions and powers under the OHS Act, play an important role in this context.

It is also noted that neither the types of discriminatory employer actions in section 76(1), nor the reverse onus in section 77, would be changed by the OHS Amendment Bill.

The Committee also queried whether, in view of the new civil anti-discrimination provisions being introduced by the OHS Amendment Bill, the justification for a reverse onus of proof for criminal anti-discrimination provisions in the OHS Act still exists.

I am advised that these provisions are necessary in this context to ensure a prosecuting authority retains a reasonable prospect of proving such offences. This remains the case irrespective of the proposed civil anti-discrimination provisions in the OHS Amendment Bill.

I hope this information is of assistance and thank the Committee for bringing these matters to my attention.

*Tim Holding MP
Minister for Finance, WorkCover
and the Transport Accident Commission*

29 May 2009

The Committee considered the Minister's response on 22 June 2009 and made the following comments in Alert Digest No. 7 of 2009 tabled in the Parliament on 23 June 2009.

Committee's further comments

The Committee thanks the Minister for his response.

The Committee notes the Minister's remark that clause 4(1) and 4(2) neither engage new Charter rights nor change the intent of existing ss. 76 and 77 of the Occupational Health and Safety Act 2004. However, the Committee considers that the statement of compatibility should address any clause that increases the impact of an existing law on any Charter right (even if the same rights are engaged and the same purpose is furthered.) Clauses 4(1) and 4(2) increase the impact of ss. 76 and 77 on the Charter's right to be presumed innocent set out in Charter s. 25(1). In particular, a defendant who has engaged in the conduct proscribed by s. 76 will, if clauses 4(1) and 4(2) are enacted, have to prove on the balance of probabilities that his or her dominant purpose was not because the employee or prospective employee assisted or raised a concern with an authorised representative (in addition to all the other prohibited purposes outlined in the existing s. 76(2)).

The Committee also notes the Minister's remark that existing s. 77 is 'necessary in this context to ensure a prosecuting authority retains a reasonable prospect of proving such offences.' The Committee observes that the test for limiting Charter rights is set out in Charter s. 7(2), which provides that:

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.*

The Committee considers that it is essential that any reverse onus be demonstrably justified according to this test, especially where the offence carries a prison sentence. In particular, a reverse onus provision may be incompatible with Charter s. 25(1) if the alternative of placing an evidential burden on the defendant was 'reasonably available to achieve the purpose' of ensuring a reasonable prospect of successful prosecutions.

The Committee refers to Parliament for its consideration the questions of:

- 1. whether or not clauses 4(1) and 4(2), by extending the operation of a reverse onus provision in s. 77 of the Occupational Health and Safety Act 2004, limit the Charter right of defendants charged under s. 76 of that Act to be presumed innocent until proved guilty according to law?**
- 2. If so, whether or not those clauses are a reasonable limit according to the test set out in Charter s. 7(2)?**

Minister's Response

I refer to the Committee's comments in the Alert Digest No. 7/2009 on 23 June 2009 regarding compatibility of the Occupational Health and Safety Amendment (Employee Protection) Bill 2009 (the OHS Amendment Bill) with the Charter of Human Rights and Responsibilities Act 2006 (the Charter).

I note that I have written to the Committee previously (on 29 May 2009), stating that the amendments to section 76(2) of the OHS Act do not impact on any rights under the Charter that are not already engaged by section 76 of the OHS Act and that they do not change the intent of the OHS discrimination provisions that have been in operation since 2005. The imposition of a reverse onus of proof is reasonable and justified in the circumstances, with such offences turning on an employer's motivation for taking certain actions. Such reasons are only known to the employer and it is therefore appropriate that they be required to explain their actions, rather than having their reasoning proved by someone else.

I note that such reasoning was also reflected in the recent National Review into Model OHS Laws. This review also recommended that any national model laws contain a similar onus on the defendant regarding alleged discrimination.

The reverse onus provision only applies once all the facts constituting the offence, other than the defendant's motivation, have been proved. In this way, defendants are able to exonerate themselves. Furthermore, the penalty has been reduced by eliminating a prison sentence.

The amendments seek to strengthen the anti-discrimination provisions of the OHS Act and to encourage workers to be proactive in relation to any OHS concerns they might have. Being unable to raise issues regarding workplace health and safety due to a fear of discrimination can place at risk the wellbeing and lives of all those involved at a workplace. The importance of the purpose of the limitation, coupled with its limited extent and specific nature, are justified under section 7(2) of the Charter for the reasons outlined above.

I hope this information addresses the Committee's concerns.

TIM HOLDING MP

*Minister for Finance, WorkCover and
the Transport Accident Commission*

30 July 2009

The Committee thanks the Minister for this response.

**Committee Room
10 August 2009**

Appendix 1

Index of Bills in 2009

	Alert Digest Nos.
Appropriation (2009/2010) Bill 2009	6
Appropriation (Parliament 2009/2010) Bill 2009	6
Associations Incorporation Amendment Bill 2008	1
Assisted Reproductive Treatment Bill 2008	1
Bushfires Royal Commission (Report) Bill 2009	4
Bus Safety Bill 2008	1, 5
Casino Legislation Amendment Bill 2009	7
Cemeteries and Crematoria Amendment Bill 2009	9
Children Legislation Amendment Bill 2009	5
Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill 2009	6
Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009	9
Courts Legislation Amendment (Sunset Provisions) Bill 2009	8
Crimes Amendment (Identity Crime) Bill 2009	4, 6
Criminal Procedure Bill 2008	1, 3
Crown Land Acts Amendment (Lease and Licence Terms) Bill 2009	6
Duties Amendment Bill 2008	1
Electricity Industry Amendment (Premium Solar Feed-in Tariff) Bill 2009	4, 5
Energy Legislation Amendment (Australian Energy Market Operator) Bill 2009	6, 8
Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2009	6, 7
Equal Opportunity Amendment (Governance) Bill 2008	1
Fair Trading and Other Acts Amendment Bill 2008	1
Fair Work (Commonwealth Powers) Bill 2009	7
Food Amendment (Regulation Reform) Bill 2009	7
Gambling Regulation Amendment Bill 2009	7
Gambling Regulation Amendment (Licensing) Bill 2009	2
Human Services (Complex Needs) Bill 2009	4
Human Tissue Amendment Bill 2009	8
Justice Legislation Amendment Bill 2009	5, 6
Legislation Reform (Repeals No. 4) Bill 2009	4
Liquor Control Reform Amendment (Enforcement) Bill 2008	1
Local Government Amendment (Conflicting Duties) Bill 2009	9
Macedonian Orthodox Church (Victoria) Property Trust Bill 2009	6
Major Crime Legislation Amendment Bill 2008	3
Major Sporting Events Bill 2009	3, 5
Melbourne Cricket Ground Bill 2008	1
Melbourne University Amendment Bill 2009	3
National Parks Amendment (Point Nepean) Bill 2009	7
Occupational Health and Safety Amendment (Employee Protection) Bill 2008	1, 7, 9
Parliamentary Salaries and Superannuation Amendment Bill 2009	5
Planning Legislation Amendment Bill 2009	5
Primary Industries Legislation Amendment Bill 2008	4
Primary Industries Legislation Further Amendment Act 2009	8
Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009	9
Relationships Amendment (Caring Relationships) Bill 2008	1
Residential Tenancies Amendment (Housing Standards) Bill 2009	8

Scrutiny of Acts and Regulations Committee

Resources Industry Legislation Amendment Bill 2008	1
Road Legislation Amendment Bill 2009	5
Salaries Legislation Amendment (Salary Sacrifice) Act 2008	1, 5
Serious Sex Offenders Monitoring Amendment Act 2009	2, 5
State Taxation Acts Amendment Bill 2009	6
Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009	4, 7
Superannuation Legislation Amendment Bill 2009	6, 8
Tobacco Amendment (Protection of Children) Bill 2009	8
Transport Legislation Amendment (Driver and Industry Standards) Act 2008	1, 5
Transport Legislation General Amendments Bill 2008	1
Transport Legislation Miscellaneous Amendments Bill 2008	1
Water Amendment (Non Water User Limit) Bill 2009	9
Workplace Rights Advocate (Repeal) Bill 2008	1

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 further correspondence with the appropriate Minister.

Alert Digest Nos.

Section 17(a)

(i) trespasses unduly upon rights or freedoms

Local Government Amendment (Conflicting Duties) Bill 2009 9

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

Tobacco Amendment (Protection of Children) Bill 2009 8

(vi) inappropriately delegates legislative power

Bus Safety Bill 2008 1, 5

Criminal Procedure Bill 2008 1, 3

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

Bus Safety Bill 2008 1

Courts Legislation (Amendment) Judicial Resolution Conference) Bill 2009 9

Courts Legislation Amendment (Sunset Provisions) Bill 2009 8

Crimes Amendment (Identity Crime) Bill 2009 4

Energy Legislation Amendment (Australian Energy Market Operator) Bill 2009 6

Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2009 6

Fair Work (Commonwealth Powers) Bill 2009 7

Human Tissue Amendment Bill 2009 8

Justice Legislation Amendment Bill 2009 5

Local Government Amendment (Conflicting Duties) Bill 2009 9

Major Sporting Events Bill 2009 3

Occupational Health and Safety Amendment (Employee Protection) Bill 2008 1, 7, 9

Road Legislation Amendment Bill 2009 5

Salaries Legislation Amendment (Salary Sacrifice) Act 2008 1

Serious Sex Offenders Monitoring Amendment Act 2009 2

Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009 4

Tobacco Amendment (Protection of Children) Bill 2009 8

Transport Legislation Amendment (Driver and Industry Standards) Act 2008 1

Section 17(b)

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

Criminal Procedure Bill 2008	1
Equal Opportunity Amendment (Governance) Bill 2008	1

Appendix 3

Ministerial Correspondence

Table of correspondence between the Committee and Ministers during 2008-09

Bill Title	Minister/ Member	Date of Committee Letter / Minister's Response	Alert Digest No. Issue raised / Response Published
Assisted Reproductive Treatment Bill 2008	Health	06.11.08 08.12.08	12 of 2008 1 of 2009
Major Crime Legislation Amendment Bill 2008	Attorney-General	02.12.08 23.02.09	15 of 2008 3 of 2009
Primary Industries Legislation Amendment Bill 2008	Agriculture	02.12.08 10.03.09	15 of 2008 4 of 2009
Relationships Amendment (Caring Relationships) Bill 2008	Attorney-General	02.12.08 19.12.08	15 of 2008 1 of 2009
Bus Safety Bill 2008	Public Transport	04.02.09 30.03.09	1 of 2009 5 of 2009
Criminal Procedure Bill 2008	Attorney-General	04.02.09 23.02.09	1 of 2009 3 of 2009
Occupational Health and Safety Amendment (Employee Protection) Bill 2008	Industrial Relations	04.02.09 29.06.09 23.06.09 30.07.09	1 of 2009 7 of 2009 7 of 2009 9 of 2009
Salaries Legislation Amendment (Salary Sacrifice) Act 2008	Finance	04.02.09 21.04.09	1 of 2009 5 of 2009
Transport Legislation Amendment (Driver and Industry Standards) Act 2008	Public Transport	04.02.09 30.03.09	1 of 2009 5 of 2009
Salaries Legislation Amendment (Salary Sacrifice) Act 2008 AND Transport Legislation Amendment (Driver and Industry Standards) Act 2008	WorkCover Public Transport	04.02.09	1 of 2009
Serious Sex Offenders Monitoring Amendment Act 2009	Corrections	26.02.09 22.04.09	2 of 2009 5 of 2009
Major Sporting Events Bill 2009	Minister for Sport & Recreation	20.03.09 01.04.09	3 of 2009 5 of 2009
Crimes Amendment (Identity Crime) Bill 2009	Attorney-General	31.03.09 04.05.09	4 of 2009 6 of 2009
Electricity Industry Amendment (Premium Solar Feed-in Tariff) Bill 2009	Energy and Resources	31.03.09 09.04.09	4 of 2009 5 of 2009

Scrutiny of Acts and Regulations Committee

Bill Title	Minister/ Member	Date of Committee Letter / Minister's Response	Alert Digest No. Issue raised / Response Published
Statute Law Amendment (Charter of Human Rights and Responsibilities) Bill 2009	Attorney-General	31.03.09 04.06.09	4 of 2009 7 of 2009
Justice Legislation Amendment Bill 2009	Racing	08.05.09 29.05.09	5 of 2009 6 of 2009
Road Legislation Amendment Bill 2009	Roads and Ports	06.05.09	5 of 2009
Energy Legislation Amendment (Australian Energy Market Operator) Bill 2009	Energy and Resources	02.06.09 15.07.09	6 of 2009 8 of 2009
Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2009	Ms Colleen Hartland MLC	02.06.09 04.06.09	6 of 2009 7 of 2009
Superannuation Legislation Amendment Bill 2009	Finance	02.06.09 30.06.09 28.07.09	6 of 2009 8 of 2009 8 of 2009
Fair Work (Commonwealth Powers) Bill 2009	Industrial Relations	23.06.09	7 of 2009
Courts Legislation Amendment (Sunset Provisions) Bill 2009	Attorney-General	28.07.09	8 of 2009
Human Tissue Amendment Bill 2009	Health	28.07.09	8 of 2009
Tobacco Amendment (Protection of Children) Bill 2009	Health	28.07.09	8 of 2009
Courts Legislation Amendment (Judicial Resolution Conference) Bill 2009	Attorney-General	11.08.09	9 of 2009
Local Government Amendment (Conflicting Duties) Bill 2009	Local Government	11.08.09	9 of 2009