



SCRUTINY OF ACTS AND  
REGULATIONS COMMITTEE

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# **Report on the Statute Law Revision Bill 2018**

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Scrutiny of Acts and Regulations Committee  
Report on the Statute Law Revision Bill 2018  
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## **Scrutiny of Acts and Regulations Committee**

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# Referral to Committee

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## Extracted from the Minutes of the Proceedings of the Legislative Council

No 6 — Thursday, 21 February 2019

- 15 STATUTE LAW REVISION BILL 2018** — Mr Jennings, moved, by leave, That the Statute Law Revision Bill 2018 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

Question — put and agreed to.

# Terms of Reference

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## *Parliamentary Committees Act 2003, section 17*

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

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
  - (i) trespasses unduly upon rights or freedoms;
  - (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
  - (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
  - (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *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;
- (c) to consider any Act that was not considered under paragraph (a) or (b) when it was a Bill –
  - (i) within 30 days immediately after the first appointment of members of the Committee after the commencement of a Parliament; or
  - (ii) within 10 sitting days after the Act receives Royal Assent –whichever is the later, and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (fa) the functions conferred on the Committee by the Charter of Human Rights and Responsibilities;
- (g) to review any Act in accordance with terms of reference which the Act is referred to the Committee.

# Recommendations

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## **Recommendation 1**

The Committee considers that the proposed amendment to the *Aboriginal Heritage Act 2006* listed in Schedule 1 is not of a substantive nature. It corrects a minor incorrect cross referencing error to a section in that Act.

The Committee considers it appropriate to include the amendment in a statute law revision bill.

## **Recommendation 2**

The Committee considers that the proposed amendments to the *Electoral Act 2002* listed in Schedule 1 are not of a substantive nature. The amendments correct a spelling error and punctuation errors.

The Committee considers it appropriate to include the amendments in a statute law revision bill.

## **Recommendation 3**

The Committee considers that the proposed amendments to the *Independent Broad-based Anti-corruption Commission Act 2011* are not of a substantive nature. The amendments correct punctuation errors.

The Committee considers it appropriate to include the amendments in a statute law revision bill.

# Statute Law Revision Bill 2018

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<b>Introduced</b>	19 December 2018
<b>Second Reading Speech</b>	21 February 2019
<b>House</b>	Legislative Council
<b>Minister introducing Bill</b>	Hon. Gavin Jennings MLC
<b>Portfolio responsibility</b>	Premier

## Reference to the Committee

On 21 February 2019 on the motion of the Hon. Gavin Jennings MLC, the Legislative Council resolved to refer the Statute Law Revision Bill 2018 (the 'Bill') to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

## The role of the Committee

The role of the Committee in considering the Bill is to ensure that the amendments sought to be made to a large number of unrelated Acts are not of a substantive policy nature, rather that they are strictly confined to the correction of minor errors or omissions such as cross-references, spelling, drafting or grammatical errors. Other acceptable statute law revision amendments update nomenclature such as the names of government agencies, successor Act names or repeal spent sections, divisions or parts of Acts. In other instances amendments correct ineffective legislative instructions that have failed to make the amendment originally proposed. The Committee accepts that such house keeping amendments are intended to clarify the original intent of the Act or update provisions in those Acts.

Where statute law revision amendments are intended to apply retrospectively the Committee seeks to ensure that there is a rationale and legitimate reason for applying the amendment to the particular retrospective date required.

In considering statute law revision Bills the Committee is mindful of the accepted principles of statutory interpretation regarding such Bills. In this respect the Committee notes the following extract from a leading Australian authority on statutory interpretation –

This case\* is illustrative of the approach that has usually been followed by the courts assuming that statute law revision Acts are not intended to change the substance of the law. They are used to tidy up the statute book, often before consolidation or reprinting occurs. The result of this approach has been to make the courts slow to infer that a change of substance has been made to an Act where an interpretation not changing the previous operation of the Act is tenable.

D. C. Pearce and R. S. Geddes, 'Statutory Interpretation in Australia' (Butterworths, 6<sup>th</sup> Edition (2006), at page 262).

\**Laird v Portland Municipality* [1958] Tas SR 90

## Purpose of the statute law revision Bill

The Bill corrects minor errors or omissions such as cross-references, spelling, drafting or grammatical errors.

## Extracts from the Second Reading Speech

The Committee notes the following extract from the Minister's Second Reading Speech<sup>1</sup> –

The bill before the house, the Statute Law Revision Bill 2018, is a regular mechanism for updating and maintaining the accuracy of statute law in Victoria. The bill ensures that the state's laws remain clear, relevant and accurate.

The bill will make minor amendments to the *Aboriginal Heritage Act 2006*, *Electoral Act 2002* and the *Independent Broad-based Anti-corruption Commission Act 2011* to ensure the meaning of the acts are clear and reflect the intention of Parliament. The amendments are minor and technical in nature — for example, to correct grammatical and typographical errors and to update cross - references.

By correcting references and fixing errors the bill will help to ensure that Victorian statutes are updated and clear, and maintained in a regular and orderly manner so they remain relevant and accessible to the Victorian community

## Office of the Chief Parliamentary Counsel

The Chief Parliamentary Counsel provided the Committee with a certificate dated 22 February 2019. It certifies that the Bill contains only amendments that are appropriate to be included in a statute law revision bill and does not contain amendments that make any substantive changes to the statute law of Victoria.

The certificate of the Chief Parliamentary Counsel is shown in the Appendix.

The Committee noted and considered the certificate.

## Statement of Compatibility

The Committee notes the Statement of Compatibility declares that the Minister is of the opinion that the Bill does not raise any human rights issues, and is compatible with the *Charter of Human Rights and Responsibilities Act 2006*.

## Charter report

The Statute Law Revision Bill 2018 is compatible with the rights set out in the Charter of Human Rights and Responsibilities.

## The Bill in brief

### [Clauses]

[1]. *Purpose* – The Bill revises the statute law of Victoria.

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<sup>1</sup> *Parliamentary Debates*, Legislative Council, 21 February 2019.

[2]. *Commencement* – This Act comes into operation on 1 January 2020.

[3]. *Schedule 1* – provides for general statute law revision amendments such as the correction of grammar, punctuation, spelling and cross referencing errors.

[4]. *Automatic repeal* – The Act will be automatically repealed on 1 January 2021. Once the amendments have taken effect on 1 January 2020, the *Statute Law Revision Act 2018* will be spent.

## **Schedule 1 – Amendment of Acts – General Amendments**

The Schedule contains three (3) items making minor amendments to the Acts specified by those items.

The Committee has broadly categorised the proposed amendments as follows: –

### **1. Reference or cross reference errors**

#### **Item 1**

The Committee considers that the proposed amendment to the *Aboriginal Heritage Act 2006* listed in Schedule 1 is not of a substantive nature. It corrects a minor incorrect cross referencing error to a section in that Act.

### **2. Errors in spelling, grammar, punctuation and typographical errors**

#### **Item 2**

The Committee considers that the proposed amendments to the *Electoral Act 2002* listed in Schedule 1 are not of a substantive nature. The amendments correct a spelling error and punctuation errors.

The Committee considers it appropriate to include the amendments in a statute law revision bill.

#### **Item 3**

The Committee considers that the proposed amendments to the *Independent Broad-based Anti-corruption Commission Act 2011* are not of a substantive nature. The amendments correct punctuation errors.

The Committee considers it appropriate to include the amendments in a statute law revision bill.



# Appendix

## Chief Parliamentary Counsel's Certificate

### PARLIAMENTARY COUNSEL VICTORIA

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22 February 2019

Mr Mark Gepp  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
MELBOURNE VIC 3002

Dear Mr Gepp

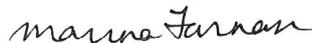
#### STATUTE LAW REVISION BILL 2018

As you are aware, this Bill was introduced into the Legislative Council on 21 February 2019 and referred to the Scrutiny of Acts and Regulations Committee on 21 February 2019.

In accordance with the usual practice for this kind of Bill, I certify that Schedule 1 to this Bill contains only amendments appropriate for a statute law revision Bill and does not make any substantive changes to the statute law of Victoria.

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

Yours sincerely



MARINA FARNAN  
Chief Parliamentary Council