

No. 2 of 2012

Tuesday, 28 February 2012

On the

Building Amendment Bill 2012

Carers Recognition Bill 2012

City of Melbourne Amendment
(Environmental Upgrade Agreement)
Bill 2012

Road Safety Amendment
(Car Doors) Bill 2012

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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 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.

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

'*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 \$122.14).

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

'*VCAT*' refers to the Victorian Civil and Administrative Tribunal;

[] denotes clause numbers in a Bill.

Alert Digest No. 2 of 2012

Building Amendment Bill 2012

Introduced	7 February 2012
Second Reading Speech	8 February 2012
House	Legislative Assembly
Member introducing Bill	Hon. Robert Clark MLA
Portfolio responsibility	Minister for Planning

Purpose

The Bill amends the *Building Act 1993* (the 'Act') to provide that a disciplinary inquiry may be commenced by the Building Practitioners Board (BPB) against a building practitioner whose registration is suspended provided the inquiry is commenced within the 3 year period after the suspension takes effect. [4]

The Bill will also clarify that a disciplinary inquiry commences from the date when the BPB serves on the practitioner a written notice of an inquiry under section 178(2) of the Act. [3]

The Committee makes no further comment

Carers Recognition Bill 2012

Introduced	7 February 2012
Second Reading Speech	8 February 2012
House	Legislative Assembly
Member introducing Bill	Hon. Mary Wooldridge MLA
Portfolio responsibility	Minister for Community Service

Purpose

The Bill proposes a new principal Act to recognise, promote and value the role of people in care relationships; to recognise the different needs of persons in care relationships; to support and recognise that care relationships bring benefits to the people in them and to the community; and to enact care relationship principles.

The Bill provides that the care relationship principles in the Bill do not create a right or entitlement enforceable in law. **[10]**

Extract from the Statement of Compatibility:

The purpose of the Bill is to recognise, promote and value the role of carers and care relationships. The Bill contains eleven principles addressing carers and people being cared for in a care relationship. The principles recognise and value carers and guide the community's understanding of the significance of care relationships. Organisations are required to consider the care relationship principles when developing policies and providing services. The Bill also provides reporting and compliance obligations for all organisations and associated providers covered by the Bill.

Extract from the Second Reading Speech:

Organisations bound by the Bill will be required to consider the principles and take action to reflect them when developing and implementing support for people in care relationships.

State government departments, entities established by Statute, and local councils as well as service organisations (and their subcontractors) funded by government to provide programs and services to people in care relationships must comply with the Bill.

The Bill will not apply to schools and early childhood services. They are already required to recognise, promote and value the role of parents or guardians as carers of their children.

The Committee makes no further comment

City of Melbourne Amendment (Environment Upgrade Agreements) Bill 2012

Introduced	7 February 2012
Second Reading Speech	8 February 2012
House	Legislative Assembly
Member introducing Bill	Hon. Jeanette Powell MLA
Portfolio responsibility	Minister for Local Government

Purpose

The Bill amends the *City of Melbourne Act 2001* to improve the procedures relating to environmental upgrade agreements under Part 4B of that Act. The Bill specifically amends provisions to ensure existing mortgage holders are not disadvantaged by the levying of a Council charge on the land.

Extract from the Explanatory Memorandum:

An environmental upgrade agreement is a tripartite agreement between the Melbourne City Council, the owner of a non-residential building in the City of Melbourne and a lending body. Under such an agreement, the lending body advances funds to the building owner to finance approved environmental upgrades and the Council levies an environmental upgrade charge to recover the funds and repay the lending body.

The Committee makes no further comment

Road Safety Amendment (Car Doors) Bill 2012

Introduced	8 February 2012
Second Reading Speech	8 February 2012
House	Legislative Council
Member introducing Bill	Mr Greg Barber MLC
Private Member's Bill	

Purpose

The Bill amends the *Road Safety Act 1986* (the 'Act') by proposing to insert a new section 64B in the Act to create a summary offence. The proposed section provides:

64B Opening doors of a vehicle

A person must not cause a hazard to any person or vehicle by opening a door of a vehicle, leaving a door of a vehicle open, or getting off or out of, a vehicle.

Penalty: 10 Penalty units. **[3]**

The Bill also provides for the imposition of demerit points for the proposed offence. **[4]**

The Committee makes no further comment

Appendix 1

Index of Acts and Bills in 2012

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Freedom of Information Amendment (Freedom of Information Commissioner) Bill 2011	1
Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011	1
Port Management Amendment (Port of Melbourne Corporation Licence Fee) Bill 2011	1
Road Safety Amendment (Car Doors) Bill 2102	2
Road Safety Amendment (Drinking While Driving) Act 2011	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 or Member.

Alert Digest Nos.

Section 17(a)

(viii) is incompatible with the human rights set out in the *Charter of Human Rights and Responsibilities Act 2006*

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Section 17(b)

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

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Appendix 3

Ministerial Correspondence 2012

Table of correspondence between the Committee and Ministers during 2012

Bill Title	Minister/ Member	Date of Committee Letter / Minister's Response	Alert Digest No. Issue raised / Response Published
Associations Incorporation Reform Bill 2011	Minister for Consumer Affairs	07-02-12	1 of 2012
Australian Consumer Law and Fair Trading Bill 2011	Minister for Consumer Affairs	07-02-12	1 of 2012
Control of Weapons and Firearms Acts Amendment Bill 2011	Minister for Police and Emergency Services	07-02-12	1 of 2012

Table of Ministers responses still pending

Bill Title	Minister/ Member	Date of Committee Letter / Minister's Response	Alert Digest No. Issue raised / Response Published
Water Legislation Amendment (Water Infrastructure Charges) Bill 2011	Minister for Water	25-10-11	12 of 2011