

No. 2 of 2007

Tuesday, 27 February 2007

On the

Parliamentary Legislation
Amendment Bill 2007
Pay-roll Tax Amendment (Bushfire
and Emergency Service) Bill 2007
Pahran Mechanics' Institute
Amendment Bill 2007
Victims of Crime Assistance
Amendment Bill 2007

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Glossary



- ‘**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 \$107.43*).
- ‘**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;



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.

Commencing 1 January 2007 section 30 of the *Charter of Human Rights and Responsibilities Act 2006* provides that the Committee must consider any Bill introduced into Parliament and must report to the Parliament whether the Bill is incompatible with human rights.



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 Charter of Human Rights and Responsibilities Act 2006 came into force on 1 January 2007.*

The Committee has considered the following Bills–

Parliamentary Legislation Amendment Bill 2007

Pay-roll Tax Amendment (Bushfire and Emergency Service) Bill 2007

Prahran Mechanics' Institute Amendment Bill 2007

Victims of Crime Assistance Amendment Bill 2007

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.

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Parliamentary Legislation Amendment Bill 2007

Introduced	14 February 2007
Second Reading Speech	15 February 2007
House	Legislative Assembly
Minister responsible	Hon. Steve Bracks MLA
Portfolio responsibility	Premier

Purpose

The Bill amends the *Parliamentary Committees Act 2003* to rename the Economic Development Committee and alter its functions; to rename the Rural and Regional Services and Development Committee; and to increase the maximum number of members of a Joint Investigatory Committee.

The Bill also amends the *Parliamentary Salaries and Superannuation Act 1968* to provide for additional salary payable to certain Members of Parliament.

Content and Committee comment

[Clauses]

[2]. The provisions in the Bill will commence operation on the day after Royal Assent.

Parliamentary Committees Act 2003

[3]. Amends section 5 of the Act to provide for the renaming of two Joint Investigatory Committees.

[6]. Amends section 21(1) of the Act to increase the maximum number of members of a Joint Investigatory Committee from 9 to 10.

Parliamentary Salaries and Superannuation Act 1968

[9]. Amends section 6 to change the additional salary payable to the Chairperson of the Public Accounts and Estimates Committee to 20% of his or her basic salary, and the Additional Salary payable to the Chairperson of the Scrutiny of Acts and Regulations Committee to 15% of his or her basic salary. The amendments also provide that the Deputy Chairpersons of the Public Accounts and Estimates Committee and the Scrutiny of Acts and Regulations Committee are each entitled to an additional salary of 4% of his or her basic salary.

[10]. Provides for the automatic repeal of this amending Act on the first anniversary of its commencement.

The Committee makes no further comment.

Pay-roll Tax Amendment (Bushfire and Emergency Service) Bill 2007

Introduced	13 February 2007
Second Reading Speech	15 February 2007
House	Legislative Assembly
Minister responsible	Hon. John Brumby MLA
Portfolio responsibility	Treasurer

Purpose

The Bill amends the *Pay-roll Tax Act 1971* in order to provide an exemption from pay-roll tax for wages paid or payable to employees who are absent from work on volunteer firefighter or emergency service duty.

Content and Committee comment

[Clauses]

[2]. The provisions in the Bill are deemed to have come into operation on 1 November 2006.

Note from the explanatory memorandum – this is necessary as the Government has determined, and already announced, that the new exemption should be applicable from the start of the bushfire season.

The Committee notes the retrospective application of these amendments and observes that the provisions are beneficial to taxpayers.

[3]. Introduces the exemption for volunteer firefighters and emergency service volunteers by inserting new paragraphs into section 10(1) of the Act and is designed to exempt wages from pay-roll tax paid or payable to an employee for any period that the employee was taking part as a volunteer in bushfire fighting activities.

The Committee notes this extract from the Second Reading Speech –

It will also apply to other voluntary emergency workers as defined in the Emergency Management Act 1986 which include St John Ambulance, Red Cross, Volunteer Coast Guards and Life Saving Victoria who provide emergency services under the auspices of a coordinated response under the State Emergency Response Plan.

[4]. Provides for the automatic repeal of this amending Act on the first anniversary of its Royal Assent.

The Committee makes no further comment.

Prahran Mechanics' Institute Amendment Bill 2007

Introduced	13 February 2007
Second Reading Speech	15 February 2007
House	Legislative Assembly
Minister responsible	Hon. Richard Wynne MLA
Portfolio responsibility	Premier

Purpose

The *Prahran Mechanics' Institute Act 1899* (the 'Act') provides for the incorporation of the Prahran Mechanics' Institution and Circulating Library ('PMI') and for the establishment of a governing committee and vested land in the PMI.

The Act authorised the PMI to borrow money for the purpose of purchasing land and erecting a building to extend the Mechanics' Institution and Circulating Library and the PMI subsequently purchased land at High Street, Prahran for that purpose.

The Bill seeks to clarify the power of the PMI to purchase the land in High Street, Prahran and to grant leases, licences and permits in relation to land held by or vested in it or any building on that land.

Content and Committee comment

- [2]. Provides for provisions in the Bill to come into operation on the day after Royal Assent.
- [3]. Amends section 2 of the Act to clarify the powers of the PMI to include the power to grant leases, licences and permits in relation to land held by or vested in it and any buildings on that land.
- [4]. Amends section 11 of the Act to specifically empower the PMI to grant leases, licences and permits in relation to any lands held by or vested in the PMI or any part of those lands or any building standing or being upon those lands.
- [5]. Inserts a new section 17 into the Act to declare that for the avoidance of doubt the PMI had the power to purchase the land at High Street, Prahran at the time of the purchase.
- [6]. Provides for the automatic repeal of this amending Act on the first anniversary of its commencement.

The Committee makes no further comment.

Victims of Crime Assistance Amendment Bill 2007

Introduced	14 February 2007
Second Reading Speech	15 February 2007
House	Legislative Assembly
Minister responsible	Hon. Rob Hulls MLA
Portfolio responsibility	Attorney-General

Purpose

The Bill amends the *Victims of Crime Assistance Act 1996* (the 'Act') to increase the amounts of special financial assistance that may be awarded to a primary victim of an act of violence for significant adverse effects experienced or suffered by the victim as a direct result of such an act.

The Committee notes this extract from the Statement of Compatibility –

Overview of the Bill

The Bill seeks to amend the Victims of Crime Assistance Act 1996 (the Act) by increasing the amount of special financial assistance that may be awarded to victims of crime under the Act. The underlying purpose of the Bill is to improve responses to victims of crime.

The Act authorises the Victims of Crime Assistance Tribunal (VOCAT) to pay certain victims of crime financial assistance, including special financial assistance if VOCAT is satisfied that an act of violence was committed against a person and the person has experienced or suffered a significant adverse effect as a direct result of that act of violence.

Content and Committee comment

[Clauses]

[2]. Provides that the Bill will commence operation on 1 July 2007.

[3]. Amends section 8A(5) of the Act by substituting a table setting out the new minimum and maximum payments of special financial assistance that may be awarded to primary victims of categories of acts of violence.

[4]. Inserts a new section 79 into the Act to provide that the new maximum and minimum amounts apply only with respect to acts of violence occurring on or after the commencement day (1 July 2007) and awards made under section 8A in respect of such acts of violence.

The Committee notes this extract from the Second Reading Speech –

Special financial assistance awards were introduced by this Government in 2000 and are similar in nature to pain-and-suffering payments under past legislation. These awards are made in addition to financial assistance awards for items such as medical expenses and loss of earnings.

They are made in circumstances where the tribunal is satisfied that an act of violence was committed against a person who has experienced or suffered a significant adverse effect as a direct result of that act of violence.

These awards apply to four categories of violent act, A to D, which are specified in the Victims of Crime Assistance (Special Financial Assistance) Regulations 2000. Category A includes serious sexual offences and attempted murder, category B includes indecent assault and

armed robbery, category C includes offences involving threats of death and conduct endangering life, and category D includes offences involving a threat of injury, assault and attempted assault. The Act prescribes minimum and maximum awards for each of these categories in a table in section 8A.

...

Special financial assistance awards are intended to constitute a tangible expression of the community's sympathy and concern for victims who have suffered from violent crime.

[5]. Provides for the automatic repeal of this amending Act on 1 July 2008.

The Committee makes no further comment.

**Committee Room
26 February 2007**

Appendix 1

Index of Bills in 2007

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Appendix 2

Committee Comments classified by Terms of Reference

Alert Digest Nos.

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(i) trespasses unduly upon rights and freedoms

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

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Appendix 3

Ministerial Correspondence

Table of correspondence between the Committee and Ministers during 2006-07

Bill Title	Minister/ Member	Date of Committee Letter	Date of Minister's Response	Issue Raised in Alert Digest No.	Response Published in Alert Digest No.
Justice Legislation (Further Miscellaneous Amendments) Bill	Attorney-General	31.5.06	13.10.06	5 of 2006	1 of 2007
Water (Governance) Bill	Water	22.8.06	1.11.06	9 of 2006	1 of 2007
Funerals Bill	Attorney-General	22.8.06		9 of 2006	
Public Sector Acts (Further Workplace Protection and Other Matters) Bill	Industrial Relations	13.9.06		10 of 2006	
Road Legislation (Projects and Road Safety) Bill	Transport	13.9.06	18.10.06	10 of 2006	1 of 2007
Serious Sex Offenders Monitoring (Amendment) Bill	Corrections	16.10.06		12 of 2006	
Public Prosecutions Amendment Bill 2006	Attorney-General	13.2.07		1 of 2007	
Senate Elections Amendment Bill 2006	Attorney-General	13.2.07		1 of 2007	
Water Amendment (Critical Water Infrastructure Projects) Bill 2006	Water	13.2.07		1 of 2007	