

No. 3 of 2009

Tuesday, 10 March 2009

On the

Criminal Procedure Bill 2008

Major Crime Legislation Amendment
Bill 2008

Major Sporting Events Bill 2009

Melbourne University Amendment
Bill 2009

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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 \$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;

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 –

Major Sporting Events Bill 2009
Melbourne University Amendment Bill 2009

The Committee notes the following correspondence –

Criminal Procedure Bill 2008
Major Crime Legislation Amendment Bill 2008



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. 3 of 2009

Major Sporting Events Bill 2009

Introduced	26 February 2009
Second Reading Speech	26 February 2009
House	Legislative Assembly
Member introducing Bill	Hon. James Merlino MLA
Portfolio responsibility	Minister for Sport and Recreation

Purpose

The purpose of the Bill is to support the acquisition, retention, staging and management of major sporting events in Victoria by including all provisions that may be required to control and protect an event within a single Act.

The Bill consolidates the existing general legislation relating to major sporting events — the *Major Events (Aerial Advertising) Act 2007*, the *Major Events (Crowd Management) Act 2003* and the *Sports Event Ticketing (Fair Access) Act 2002* into one Act. In addition, the Bill includes provisions relating to the operational requirements of major sporting events, the protection of commercial interests of those events, including control of advertising other than aerial advertising, protections from claims for economic loss and regulation of the application of other laws to major sporting events.

Background

Extracts from the Second Reading Speech –

1. *The Sports Event Ticketing (Fair Access) Act 2002, the Major Events (Crowd Management) Act 2003 and the Major Events (Aerial Advertising) Act 2007 will be repealed and their provisions incorporated into one Act.*
2. *...it adds the AFL finals series to the list of events that are routinely protected by the aerial advertising provisions of the Bill in recognition of the importance of those events and the potential for ambush aerial advertising.*
3. *The Bill also improves the crowd management provision in the Bill that allows an authorised officer to direct a person to leave a sporting venue because the person has engaged in disruptive behaviour to make it more compatible with the Charter of Human Rights and Responsibilities. A key part of the clause now requires that a person cause 'unreasonable disruption or unreasonable interference' to spectators or event organisers rather than 'annoyance to spectators' as in section 15 of the Major Events (Crowd Management) Act 2003.*
4. *Broadly, the Bill will provide protection for various commercial arrangements relating to major sporting events, facilitate the operational arrangements required for events, provide limited protection for events against claims for economic compensation, regulate how other acts apply to the staging and conduct of major sporting events and protect against types of ambush advertising. For example, the Bill includes prohibitions against unauthorised broadcasting of an event.*
5. *Similarly, the Bill sets out other protections and requirements that can be activated when appropriate. These include: prohibition of unauthorised use of event logos, images and references and related enforcement provisions; suspension of the application of other acts to event venues or event areas for limited periods to facilitate the delivery of a major sporting event.*
6. *The Bill provides for the Governor in Council to make orders, on the recommendation of the Minister, indicating which parts and provisions of the Bill are to apply to a particular event,*

depending on the requirements for each event. This reflects the Governor in Council's existing powers under the crowd management and aerial advertising legislation and applies those arrangements to the range of additional provisions described earlier.

7. *All major sporting event orders must be published in the Government Gazette. Major sporting event orders that apply provisions relating to commercial arrangements, advertising other than aerial advertising and aerial advertising to an event, orders that prescribe the non-application of other laws ('acts non-application orders') and no compensation orders must be laid before each house of Parliament. Acts non-application orders and no compensation orders may be disallowed in whole or in part by either house of Parliament.*
8. *Not all protections will be required or applied to every event. It is anticipated that only the most significant of major sporting events would require the full range of protections provided by the Bill to be activated.*

Content and Committee comment

Part 1 (clauses 1 to 6) deal with preliminary matters such as the purpose and commencement of the Act and provide for major definitions used throughout the Act.

Part 2 (clauses 7 to 26) provides that the Governor in Council may make a major sporting event order, on the recommendation of the Minister. The order must be published in the Government Gazette (gazetted) and may make provision for the event area, aerial advertising, commercial arrangements, the non-application of other Acts (a non-application order) which must be gazetted and no compensation orders (a no compensation order) for loss or damage as a consequence of a major sporting event, other than for death or personal injury which must also be gazetted.

A non-application or no compensation order may be disallowed by the Parliament and the relevant provisions of the *Subordinate Legislation Act 1994* apply accordingly.

The Minister may also provide for event guidelines which are to be gazetted and tabled in the Parliament.

Part 3 – Commercial Arrangements (clauses 27 to 60) deal with commercial arrangements and related offences and enforcement provisions relevant to major events, including provisions concerning the protection of logos, images and references and the authorisation of broadcasting. Enforcement powers include provisions concerning seizure of goods and equipment, the retention of recordings and films, injunctive powers and forfeiture orders.

The Part provides that without the proper authorisation it is an offence to engage in conduct that suggests sponsorship, approval or affiliation; use a protected logo, image or event or to broadcast or record an event.

Part 4 – Crowd Management (clauses 61 to 91) of the Bill deal with crowd management and largely reproduces the provisions of the *Major Events (Crowd Management) Act 2003*, with some modifications. The Part will apply to certain specified events and in certain specified circumstances.

Clause 62 provides an offence for the unauthorised possession of a prohibited item (excluding distress signals and fireworks) as defined in clause 3. Prohibited items include certain animals (excluding guide or police dogs or animals competing in the event), laser pointers, dangerous goods, whistles or loud hailers, bicycles (except a police or competition bicycle), scooters, skateboards, roller skates or roller blades, horns or bugles, flags or banners larger than 1 metre by 1 metre or possessing a handle longer than 1 metre, any items which are in such a quantity that a reasonable person could infer that those items are to be used for commercial purposes and a public address system, electronic equipment, broadcast equipment or similar devices which may interfere with equipment being used to run an event.

Prohibited weapons within the meaning of the *Control of Weapons Act 1990* and firearms within the meaning of the *Firearms Act 1996* are also prohibited items, regardless of whether a person is licensed or otherwise permitted to carry them.

Clauses 63 to 74 make provision for specific offences such as possession of fireworks, alcohol, unauthorised entry onto the competition space, throwing projectiles, obstructing the view of a seated person and a number of other offences found in current legislation.

Clause 79 provides that venue managers may prohibit items, in addition to those items specified in the definition of prohibited item, from being brought into an event venue or area for which they are responsible. The venue manager must display signs setting out details of additional prohibited items and as far as practicable ensure that those signs are displayed in such a manner that the details are reasonably likely to be seen by people affected by them. It is not an offence to possess an item prohibited by a venue manager in an event venue or area, but a person may be asked to surrender the item and if he or she does not, may be asked to leave or to have the item confiscated by a police officer.

Clauses 83 to 85 provides that an authorised officer may direct a person to leave and not re-enter or not to enter an event venue or area, if the authorised officer believes on reasonable grounds that the person has committed an offence against clause 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73 or 74 or if the person engages in disruptive behaviour. It is an offence to fail to comply with a lawful direction.

Clauses 86 and 87 deal with repeat offenders who have already been convicted of certain offences and provides for a court to make a ban order in relation to persons convicted of certain offences.

Clauses 88 to 90 provides for powers to request name and address and for inspection.

Clause 91 provides that a member of the police force may serve an infringement notice on a person who the member of the police force has reason to believe has committed a relevant offence.

Part 5 (clauses 92 to 100) of the Bill provides for the suspension of the application of certain other Acts to event venues or event areas for limited periods to facilitate the delivery of a major sporting event. Similar provisions were included in the *World Swimming Championships Act 2004* and in the *Commonwealth Games Arrangements Act 2001*.

Part 6 (clauses 101 to 114) make provisions relating to general operational arrangements such as a power to remove offenders, vehicles and vessels at an event venue or event area. The Part also makes provision for temporary road closures, temporary road modifications and the restoration of event venues and event areas at the conclusion of an event.

Part 7 (clauses 115 to 123) seeks to protect event organisers from ambush (unauthorised) advertising on buildings, structures and vessels other than aerial advertising. The Part includes injunctive powers to restrain or prevent unauthorised conduct and makes provision for an action for damages.

Part 8 (clauses 124 to 150) incorporates the provisions of the *Major Events (Aerial Advertising) Act 2007* to provide for the regulation, management and control of aerial advertising at major sporting events in Victoria. The provisions include injunctive powers, powers of search and seizure.

Part 9 (clauses 151 to 182) incorporates the provisions of the *Sports Event Ticketing (Fair Access) Act 2002* and allows the Minister to make sports ticketing declarations which regulate the sale of tickets in respect to a declared sports event by means of approved

ticketing schemes. It is an offence to sell tickets contrary to the approved scheme. VCAT has a supervisory appellate function under the Part. The Part also provides for enforcement powers including search and seizure powers.

Part 10 (clauses 183 to 187) establishes a regime for the appointment and identification of authorised officers and related offences for obstructing and impersonating authorised officers.

Part 11 (clauses 188 to 192) establishes a regime for enforcement in relation to offences under the Act. The provisions are largely a combination of provisions from the *Major Events (Aerial Advertising) Act 2007* and the *Sports Event Ticketing (Fair Access) Act 2002*.

Part 12 (clauses 192 to 194) provides for matters including interaction of the Bill with the *Australian Grands Prix Act 1994*, service of documents and regulations.

Part 13 (clauses 195 to 206) provides for consequential and other amendments, transitional provisions and repeals the following Acts, the –

- *Major Events (Crowd Management) Act 2003*,
- *Major Events (Aerial Advertising) Act 2007*
- *Sports Event Ticketing (Fair Access) Act 2002*.

Privilege against self incrimination

Clauses 146 and 176 are provisions relevant to the privilege against self-incrimination for a natural person. The provisions are respectively in relation to aerial advertising (Part 8) and sports event ticketing (Part 9).

Clause 146 provides for the privilege in all cases except in respect to documents required to be produced under the Part and clause 176 allows the privilege without any qualification.

Charter report

Freedom of expression – Public life – Public speech at sporting events – Offence to possess large banners – Power to immediately exclude people who engage in unsafe, disruptive or interfering behaviour

Summary: A number of the bill's provisions may limit the ability of Victorians to engage in public speech (including political protests and other participation in public debate) at some sporting venues during major sporting events. The Committee is concerned that provisions criminalising the possession of all large banners in all sporting areas and venue and authorising officials to immediately expel people who engage in unsafe, disruptive or interfering behaviour may be unreasonable limits on Victorians' Charter rights to freedom of expression and to public life.

The Committee notes that **a number of the bill's provisions may limit the ability of Victorians to engage in public speech (including political protests and other participation in public debate) at some sporting venues during major sporting events.** These provisions engage the Charter rights of Victorians to freedom of expression and to public life.¹

¹ Charter s. 15(2) provides that 'Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether – ... (e) in another medium chosen by him or her.' Charter s. 18(1) provides that 'Every person in

The Statement of Compatibility remarks:

In relation to crowd management provisions, there are no less restrictive means available to achieve a safe and orderly environment at major sporting events. The behaviours that are proscribed are all unacceptable to event organisers, venue managers and the community for various reasons including the need for public order and safety. The minimum consequences of these behaviours – a direction to leave for 24 hours – is the least restrictive response that would achieve the purpose.

While the Committee considers that the majority of the bill's limitations on public speech are proportionate ways of protecting compelling government interests, in particular the public enjoyment of sporting events, it is concerned about two provisions:

First, clause 62 makes it a criminal offence to possess 'prohibited items' at an event area or venue without authorisation. Item (l) of the definition of 'prohibited item' in clause 3 is:

a flag or banner which (i) is larger than 1 metre by 1 metre; or (ii) has a handle longer than 1 metre.

This item does not appear in the equivalent provision of the *Major Events (Crowd Management) Act 2003*.² Large banners are a potentially important form of public expression and can be used without significant disruption in some parts of sporting venues (e.g. in open areas or plazas surrounding stadiums.) Given that other clauses of the bill already prohibit behaviour that blocks views or disturbs or interferes with spectators or workers (e.g. by inappropriately placed banners), **the Committee is concerned that additionally criminalising the possession of all large banners in all parts of sporting areas or venues may be an unreasonable limit on the rights to freedom of expression and public life. The Committee is also concerned that spectators (including overseas spectators) may be unaware that the possession of large banners and flags at sporting venues and areas is a criminal offence.**

Second, clause 84 provides that an authorised officer may exclude a person from an event venue or area for 24 hours if the officer reasonably believes that the person is:

- disrupting or interrupting a sporting event
- risking the safety of that person or other spectators
- causing unreasonable disruption or interference to spectators or workers

While the Committee accepts that these are appropriate grounds for limiting expression (and welcomes the refinement of the current provision of the *Major Events (Crowd Management) Act 2003*), it is concerned that potential protesters will be unable to predict in advance what behaviours will lead to exclusion. The result may be that people are expelled for behaviour without realising that it was unsafe, disturbing or interfering, or may avoid acceptable expression to remove the risk of summary exclusion. **The Committee therefore considers that clause 84 may result in unreasonable limits on the rights to freedom of expression and public life.** In particular, the purpose of s. 84 might be reasonably achieved by a less restrictive means: if the power to expel only became available once the person had been warned that his or her behaviour was unacceptable and nevertheless persisted in it.³

The Statement of Compatibility remarks:

Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly...'

² s. 3 (definition of 'prohibited item'.) Large banners and flags are prohibited items under the *World Swimming Championships Act 2004*.

³ Charter s. 7(2) states: '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.'

It should be noted that these restrictions are not as great as the restrictions that may be imposed by land or venue managers, without the bill. Under clause 75 of the bill an individual may seek authorisation for some of these behaviours...

The Committee observes that overseas courts have held that events or venues attended by large numbers of people are very significant to political speech, especially for people and causes without media access, so that even the exercise of property rights may infringe the right to freedom of expression.⁴ Given that the speech may be a protest against the event organisers or the government, authorisation and official discretion may not be sufficient mechanisms to avoid concerns about the rights to expression and public life.

The Committee considers that item (I) of clause 3's definition of 'prohibited item' and clauses 62 and 84 may be incompatible with the Charter's rights to freedom of expression and to public life.

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

- 1. In light of other provisions barring obstruction of views and other disruptive behaviour, why is it necessary to criminalise the possession of all large banners at all parts of sporting areas and venues?***
- 2. What steps will be taken to make spectators (including overseas spectators) aware of the requirements of item (I) of clause 3's definition of 'prohibited item' combined with clause 62?***
- 3. Would empowering an official to expel a person only if they persist in behaviour after being asked to stop be a reasonably available less restrictive alternative to the present clause 84?***

Pending the Minister's response, the Committee refers to Parliament for its consideration the questions of:

- 1. Whether or not item (I) of clause 3's definition of 'prohibited item' and clause 62, by criminalising the possession of all large banners at all parts of sporting venues or areas, limits the Charter rights of Victorians to freedom of expression and participation in public life.***
- 2. Whether or not clause 84, by authorising officials to immediately expel people who engage in unsafe, disruptive or interfering behaviour, limits the Charter rights of Victorians to freedom of expression in public life.***
- 3. If so, whether or not these clauses are reasonable limits on Victorians' Charter rights and, in particular, whether there are less restrictive alternatives reasonably available to achieve the purpose of facilitating the public enjoyment of sporting events.***

The Committee makes no further comment.

⁴ E.g. *Committee for the Commonwealth of Canada v Canada* [1991] 1 SCR 139; *Ramsden v Peterborough (City)*, [1993] 2 SCR 1084.

Melbourne University Amendment Bill 2009

Introduced	26 February 2009
Second Reading Speech	26 February 2009
House	Legislative Assembly
Member introducing Bill	Hon. Jacinta Allan MLA
Portfolio responsibility	Minister for Skills and Workforce Participation

Purpose and Background

The Bill amends the *Melbourne University Act 1958* to facilitate the amalgamation between the Faculty of the Victorian College of the Arts and the Faculty of Music at The University of Melbourne.

The Committee makes no further comment.

Ministerial Correspondence

Criminal Procedure Bill 2008

The Bill 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

[2]

Delayed commencement – Inappropriate delegation of legislative power

The Committee notes that the explanatory memorandum draws attention to the possible delayed commencement of several clauses such as clauses 145 and 242.

The Committee refers to its Practice Note No. 1 concerning delayed commencement provisions exceeding one year from introduction in the Parliament. In such circumstances the Committee will seek to ensure that Parliament has sufficient information to determine whether a delay in commencement is justified.

The Committee will seek further information from the Attorney-General concerning clauses 145 and 242 and others that may have delayed commencement of greater than one year from introduction in the Parliament.

Charter report

Rights to an interpreter and to communication assistance – Provision barring uninterpreted hearings in circumstances that are narrower than the Charter's minimum guarantees – Whether restricted circumstances demonstrably justified

Summary: Clause 335 bars a court from hearing a criminal proceeding in the absence of a competent interpreter, but provides no protection for people who know but cannot speak English, or who can speak English but require assistance to communicate, or who are charged with offences that are not punishable by imprisonment. The Committee will write to the Minister seeking further information as to whether there is a demonstrable justification for the conditions in clause 335(a) & (b).

*The Committee notes that **clause 335 bars a court from hearing a criminal proceeding in the absence of a competent interpreter** if two conditions are satisfied:*

- s. 335(a): a person is charged with an offence punishable by imprisonment; and
- s. 335(b): that person does not have sufficient 'knowledge of the English language'

These conditions are more restrictive than the Charter s. 25's 'minimum guarantees' for all criminal defendants:

- Charter s. 25(2)(i): 'to have the free assistance of an interpreter if he or she cannot understand or speak English'.
- Charter s. 25(2)(j): 'to have the free assistance of assistants and specialised communications tools and technology if he or she has communication or speech difficulties that require such assistance'.

The Committee is concerned that clause 335 provides no protection for people who know but cannot speak English, or who can speak English but require assistance to communicate. Also, it doesn't protect people charged with offences that are not punishable by imprisonment. The Canadian Supreme Court, interpreting a similar right, has noted that it applies to 'all accused, irrespective of the gravity of the offence charged and its classification'.

The Statement of Compatibility observes that the bill does not 'limit' the right to an interpreter and, more generally, that the bill operates in tandem with common law and other statutory rights, including the right to a fair hearing. However, the Committee is concerned that an express statutory protection protecting one of Charter s. 25's 'minimum guarantees' only in some circumstances may be incompatible with the Charter unless that limited protection is demonstrably justified according to the test in Charter s. 7(2). Also, a ban on uninterpreted proceedings only when people lack 'knowledge' (as opposed to other communication difficulties) may limit the Charter's right to equal protection of the law without discrimination on the basis of impairment.

The Committee will write to the Minister seeking further information as to whether there is a demonstrable justification for the conditions in clause 335(a) & (b). Pending the Minister's response, the Committee draws attention to clause 335.

Minister's Response

I refer to your letter dated 4 December 2007 regarding your Committee's consideration of the Criminal Procedure Bill 2008 (the Bill).

The Committee has asked for my response to two issues, namely delayed commencement of the Bill and the consistency of clause 335 (Interpreters) with the Charter.

Delayed Commencement

The Bill has a forced commencement date of 1 January 2011. The Bill represents a comprehensive reform to criminal procedure in Victoria. As a result, a significant lead-in period to commencement is needed to ensure that key agencies are in a position to implement the reforms effectively. In particular, all of Victoria's criminal courts will need to develop new forms, court rules and practices to accommodate the changes.

Further, in order to simplify implementation and to help agencies and people with the change process, it is intended that the Bill will commence on the same date as the Evidence Act 2008. Based on extensive consultation by my Departmental officers with relevant agencies, it is intended that this joint commencement will occur in October 2009.

As the Committee notes, the forced commencement date for the Evidence Act 2008 is 1 January 2010. The reason for the different date in the Bill is to provide some flexibility to delay the commencement of a small number of provisions, most likely clauses 145 and 242 which relate to the transfer of related summary offences from the Magistrates' Court to the Supreme Court or the County Court. These new processes will require significant information technology changes. Significant efficiencies may be achieved by introducing these changes simultaneously with the introduction of the Integrated Court Management System (ICMS). The extended commencement date will provide the flexibility necessary for that to occur.

Clause 335 - Interpreters

Clause 335 applies to all proceedings punishable by imprisonment and prohibits a court from hearing and determining the proceeding without an interpreter if the accused does not have a knowledge of English sufficient to allow them to understand or participate in the proceeding.

The Committee is concerned that clause 335 gives less protection to an accused with language difficulties than the Charter. This is for two primary reasons, which I will respond to in turn.

The first reason is that, because clause 335(b) only refers to a “knowledge” of the English language, it will not provide protection to an accused who knows but cannot speak English. This is said to stand in contrast with section 25(2)(i) of the Charter which applies to a person who “cannot understand or speak English”.

I do not consider that clause 335(b) is limited in this way. When read in full, clause 335(b) refers to a knowledge of the English language sufficient to enable the person to “understand or participate in the proceeding”. The accused’s knowledge should not be considered in the abstract, but is directly linked to understanding and participation. When considering whether the accused can “participate” in the proceeding, the court would necessarily consider whether the accused can speak English. As a result, I consider that clause 335(b) reflects and complements section 25(2)(i), rather than limiting it.

The Committee’s second concern is that, because clause 335 is limited to cases where an accused is at risk of imprisonment, it limits the Charter protections for those accused that are not at risk of imprisonment. I do not agree that clause 335 has that effect because I do not consider that Charter rights for some people are capable of being limited by implication in the way suggested.

Clause 335 gives additional protection to accused who at risk of imprisonment by expressly prohibiting the court from proceeding without an interpreter in those cases. However, in providing for this express additional protection, the clause could not reasonably be interpreted as limiting the rights of other accused. This reasoning applies equally to the Committee’s concern about a possible implied limiting of section 25(2)(j) of the Charter.

Importantly, the right to a fair trial is a fundamental part of Victoria’s criminal justice system. This concept of a fair trial has long included the idea that an accused should be able to participate in their trial and understand the criminal process. For this reason, interpreters have been regularly used in criminal cases for many decades.

The Court of Appeal recently affirmed this long-standing principle in R v Yasso [2007] VSCA 306 (14 December 2007) in the following way:

It is, of course, an elementary requirement of natural justice that a defendant in criminal proceedings be able to participate fully, to present argument and answer questions, and to understand everything that is said by the bench and by opposing counsel. For a non-English speaking defendant, accurate interpreting is vitally important.

Clause 335 does not change these protections, nor does it weaken or limit Charter rights. It simply declares that where someone is at risk of imprisonment the court cannot proceed without an interpreter.

Finally, I note that clause 335 is based on section 40 of the Magistrates’ Court Act 1989. It has worked effectively for a long time and it has not previously been suggested that its presence weakens the common law right of an accused to a fair trial. The only substantive change in the Bill is that the clause applies to all criminal courts, not just to the Magistrates’ Court.

Given these factors, I consider that clause 335 enhances and promotes the rights in the Charter, rather than limiting them in the manner suggested. For that reason, I do not consider that clause 335 requires a justification under section 7 of the Charter as requested by SARC.

If you would be assisted by a briefing from officers from my Department on the details of the issues you have raised, please contact Mr Stan Winford from my office (965 11146) to arrange a suitable time.

*ROB HULLS MP
Attorney-General*

23 February 2009

The Committee thanks the Minister for this response.

Major Crime Legislation Amendment Bill 2008

The Bill was introduced into the Legislative Assembly on 11 November 2008 by the Hon. Rob Hulls MLA. The Committee considered the Bill on 1 December 2008 and made the following comments in Alert Digest No. 15 of 2008 tabled in the Parliament on 2 December 2008.

Committee's Comments

Charter report

Keywords – Adequacy of statement of compatibility – Extension of scope of coercive powers scheme – Organised crime offence involving sexual gratification where the victim is a child.

Summary: *The Statement of Compatibility does not address clause 3(2), which extends an existing scheme that engages Charter rights. The Committee will write to the Minister about the statement of compatibility. It draws attention to clause 3(2).*

The Committee notes that clause 3(2), amending s. 3 of the Major Crime (Investigative Powers) Act 2004, extends the definition of 'organised crime offence' to include offences that have the purpose 'of sexual gratification where the victim is a child'. The Second Reading Speech remarks:

This bill inserts an additional element into the final limb of the definition to ensure that serious and organised crime involving the abuse of children and paedophilia networks is captured for the purpose of the coercive questioning powers. This will be achieved by expanding the purposes for the offending to include sexual gratification where the victim is a child. The amendment is necessary as organised crime groups involved in child abuse and pornography are not necessarily motivated by profit, gain, power or influence.

The Committee is concerned that the Statement of Compatibility does not address the compatibility or otherwise of clause 3(2)'s extension of the coercive powers scheme with human rights. In its Alert Digest No 9 of 2004, the Committee identified numerous concerns about the (then) Bill creating the scheme under its 'trespasses unduly on rights and freedoms' term of reference. Some of these concerns, notably those relating to privacy and self-incrimination, obviously also engage rights under the Charter, e.g. Charter ss. 13(a), 24 and 25(2)(k). Indeed, the compatibility of aspects of the existing scheme with the Charter is currently being litigated in the Supreme Court.

The Committee considers that when anything more than a technical extension is made to an existing scheme that engages human rights, Charter s. 28 requires that the Statement of Compatibility include an explanation of the compatibility or otherwise of the scheme (in its extended form) with human rights. The Committee feels that clause 3(2)'s extension of a significant, unusual and coercive scheme, enacted before the commencement of the Charter, to a new category of criminal offence is an especially important instance of this principle.

The Committee will therefore write to the Minister expressing its concern about the statement of compatibility. Pending the Minister's response, the Committee draws attention to clause 3(2).

Keywords – Fair hearing – Proceedings for revoking or reviewing certain orders – Proceedings may be determined on the basis of information that is not revealed to the applicant – Whether reasonable limit

Summary: *Clauses 4, 14 and 15 allow a court to determine some proceedings on the basis of evidence that is kept secret from one party and his or her lawyers. In some instances, this may result in the matter being determined without a fair hearing. The*

Statement of Compatibility does not address why less intrusive schemes aren't available. The Committee refers the question of possible Charter incompatibility to Parliament.

The Committee notes that clauses 4, 14 and 15, providing for the revocation or review of certain orders in the Supreme Court, contain procedures that apply when the Chief Commissioner 'objects to the disclosure or production of protected information at the hearing of the application'. Of the four options available to the Supreme Court in such a circumstance, three of them involve the Supreme Court potentially determining the proceedings on the basis of information that is not revealed to the applicant or his or her legal representative, either because 'a confidential affidavit... is not disclosed to one or more of the parties or any representative of those parties' or because the application is determined 'at a hearing held without notice to, and without the presence of, one or more of the parties, or any representative of those parties'.

Clauses 4, 14 and 15 go considerably further than the provisions of the Police Integrity Act 2008 on which they are based. Under the Police Integrity Act 2008, information that a court determines cannot be disclosed to a litigant is excluded from the proceedings altogether. By contrast, **under clauses 4, 14 and 15, such evidence is considered by the court in the revocation or review proceedings, and may even be determinative of those proceedings, even though the applicant doesn't know what the evidence is and has had no opportunity to respond to it.**

The Committee therefore considers that clauses 4, 14 and 15 may limit such applicants' Charter right to have civil proceedings determined after a fair hearing. To the extent that they hinder the effective review of orders made against applicants, they may also engage Charter rights affected by those orders, such as the many rights limited by coercive powers orders made under the Major Crimes (Investigative Powers) Act 2004. The Committee observes that clause 4 was not recommended by the Special Investigations Monitor in his report on the coercive powers regime.

The Committee considers that the compatibility of clauses 4, 14 and 15 with the Charter may depend on whether or not they satisfy the test for limiting rights set out in Charter s, 7(2).

The Statement of Compatibility remarks:

[T]he court would only determine the application without notice to and without the presence of certain parties if it was in the public interest to do so.... [T]he interests of parties seeking the revocation of orders will be protected by the appointment of a special counsel to represent the interests of a party to the proceeding at the hearing, where the court decides to proceed by way of a hearing held without notice to and without the present of a party, which provides an additional safeguard.

The Committee is concerned that, in some cases, the information at issue may be both too sensitive to reveal to the applicant and too crucial to consider fairly without the applicant's personal input. The special counsel procedure cannot always resolve this problem, because counsel is barred from taking instructions from the applicant once the information is disclosed. In such circumstances, **the provisions may require the court to resolve the matter without a fair hearing.** Last year, the House of Lords held that a similar regime would be incompatible with the right to a fair hearing, unless the court had additional powers, on fairness grounds alone, to either disclose the information to the applicant or to resolve the matter in the applicant's favour.

The Statement of Compatibility also remarks:

There are no less restrictive means to reasonably achieve the purpose of protecting confidential intelligence information.

The Committee notes the following regimes from other jurisdictions:

- The National Security Information (Civil and Criminal Proceedings) Act 2004 (Cth), which governs all federal matters (including the making of control orders in relation to

suspected terrorist acts) provides for *ex parte* procedures for the redaction or summarising of protected documents. However, substantive proceedings are determined solely on the basis of information that is released to all the parties.

- Canada's Security Intelligence Review Committee, which first developed the special counsel procedure in the context of deportation proceedings, requires the special counsel to negotiate a statement of the 'gist' of the evidence contained in the confidential document, which is immediately handed to the excluded party and his or her lawyer to facilitate vigorous advocacy about the protected evidence.
- The Prevention of Terrorism Act 2005 (UK) requires the court to consider requiring the state to provide a summary of the protected information to the subject of the order and, in the event the summary isn't provided, to withdraw the protected information from its consideration. As interpreted by the House of Lords, the legislation also empowers the courts to either disclose any information or to quash the control order if doing so is necessary to protect that party's right to a fair hearing.

The Committee observes that **the statement of compatibility does not address why these alternatives are not reasonable available in relation to proceedings for revoking or reviewing coercion or exclusion orders.**

The Committee will write to the Attorney-General seeking further information as to whether the Commonwealth, Canadian or United Kingdom schemes would reasonably achieve the purpose of protecting confidential intelligence information.

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

1. **Whether or not clauses 4, 14 and 15, by permitting a court to determine certain proceedings on the basis of evidence that is kept secret from one party and his or her lawyers, may limit that party's Charter rights to a fair hearing and to other rights at stake in the proceeding.**
2. **If so, whether or not clauses 4, 14 and 15 are reasonable limits on the applicant's Charter rights under the test in Charter s. 7(2) and, in particular, whether or not there are less restrictive means reasonably available to achieve the purpose of protecting confidential intelligence information.**

The Committee makes no further comment.

Minister's Response

I write in reference to the Scrutiny of Acts and Regulations Committee (the Committee) Alert Digest No 15 of 2008 regarding the Major Crime Legislation Amendment Bill 2008 (the Bill).

The Alert Digest report makes a number of observations on the Bill, which I have endeavoured to address in the attached paper.

If the Committee requires clarification of any of the matters raised in the paper, please do not hesitate to contact me or Margaret Byrne of Justice Policy, Department of Justice (8684 1034).

ROB HULLS MP
Attorney-General

23 February 2009

With reference to the queries raised by SARC I make the following remarks.

The Committee is concerned that the Statement of Compatibility does not address the compatibility or otherwise of clause 3(2)'s extension of the coercive powers scheme with human rights

Clause 3(2) extends the definition of 'organised crime offence' to ensure that serious and organised crime involving the abuse of children and paedophilia networks are captured as relevant offences for the purpose of coercive questioning powers under the Act. Clause 3(2) therefore extends the statutory scheme of the Major Crime (Investigative Powers) Act 2004 (Major Crime Act) to a new category of criminal offence. The amendment made by the Bill does not of itself engage any Charter rights and I consider, for the reasons set out below, that the compulsory questioning powers set out in the Act are compatible with human rights in the Charter.

The statutory scheme of the Major Crime Act

Section 29 of the Major Crime Act confers power on the Chief Examiner to conduct an examination of a person in relation to an organised crime offence¹ if he has received a copy of a coercive powers order made by the Supreme Court² in relation to that offence. If a coercive powers order is in force, the Supreme Court (under s 14), or the Chief Examiner (under s 15) may issue a witness summons for the attendance of a witness at an examination by the Chief Examiner to give evidence and/or produce documents or other things.

Section 39 provides that, at an examination by the Chief Examiner, the common law privilege against self-incrimination is expressly abrogated. It provides:

A person is not excused from answering a question or giving information at an examination, or from producing a document or other thing at an examination or in accordance with a witness summons, on the ground that the answer to the question, the information, or the production of document or other thing, might tend to incriminate the person or make the person liable to a penalty.

The Major Crime Act envisages that the witness may already have been charged.³ Fairness of the criminal proceedings are safeguarded through an obligation on the Chief Examiner to take all reasonable steps to ensure that the conduct of the examination does not prejudice those proceedings.

Sub-section (3) of s 39 prohibits the direct use of any answer, document or thing in evidence against the witness in a criminal proceeding or a proceeding for the imposition of a penalty. It creates a "direct use immunity". There is no prohibition on the "derivative use" of the answers given by the person summonsed. This means that, although the actual answers will be inadmissible, evidence discovered as a result of the answers given can be used against that person in criminal proceedings.

Privilege against self incrimination

Section 25(2)(k) of the Charter provides that a person cannot be compelled to testify against himself or herself or to confess guilt. In addition, section 24(1) guarantees the right to a fair trial, which some jurisdictions have interpreted as including a protection against self-incrimination.

The Victorian Courts have yet to consider the scope of these rights in the context of powers to conduct compulsory questioning.

In other jurisdictions equivalent rights have been interpreted as being limited to 'testimonial disclosures' and therefore would apply to requirements to answer questions but not to the production of documents or 'things'.

¹ See s 3 for a definition of "organised crime offence".

² Section 8 confers power on the Supreme Court to make a coercive powers order.

³ See s 18 and s 29(2).

In relation to answering questions, the United States Supreme Court has interpreted the right as requiring not only a direct use immunity, as is provided in the Act, but also a derivative use immunity. However, this approach has not been followed by other jurisdictions where a direct use immunity is generally regarded as sufficient to protect the right: see particularly the decision of the Court of Final Appeal of Hong Kong (including Sir Anthony Mason) in HKSAR v Lee Ming Tee [2001] HKFCA 14.

The Supreme Court of Canada has considered that the use of compulsory questioning powers for an improper purpose, including to obtain an advantage in the prosecution of existing criminal proceedings, could amount to a breach of the right to fundamental justice in s 7 of the Canadian Charter. In such cases, the Court can exclude evidence that has been improperly obtained or, if the improper purpose is apparent at the time of questioning, prevent the questioning from occurring. The Canadian courts also provide a partial derivative use immunity, with courts having the discretion to exclude derivative evidence in a criminal trial.

The right to fundamental justice in the Canadian Charter is a much broader right than the right to a fair hearing in s 24(1) of the Victorian Charter. The Hong Kong Court of Final Appeal has declined to give such a broad interpretation to its fair hearing right. In any event, there remains a common law discretion to restrain questions in cases where the examination is being conducted for an improper purpose or constitutes an abuse of process: see Hamilton v Oades (1989) 166 CLR 486. Similarly, there remains the common law discretion to exclude evidence to protect against an unfair trial although this would not extend to exclusion of derivative evidence simply on the basis of it being derivative evidence where the privilege has been abrogated by statute.

In light of the case law, I consider that the privilege against self incrimination protected by s 25(2)(k) and/or s 24(1) of the Charter is not limited.

Even if a broader view of the scope of the rights were adopted, I consider that the limits placed upon them would be reasonable and justified having regard to the factors set out in s 7(2) of the Charter. The difficulties in investigating and prosecuting organised crime are well-known. While the privilege against self-incrimination is an important right, the compulsory questioning scheme set out in the Act avoids the risks and concerns to which the right is principally directed, namely the risk of torture and other improper means by which incriminating answers may be obtained and the unreliability of forced confessions. The Act prescribes a scheme under which the questioning must be authorised by a Supreme Court judge, is conducted by an independent person (the Chief Examiner), is subject to scrutiny by the Special Investigations Monitor, contains a direct use immunity, and contains a number of other procedural protections.

Accordingly, I consider the provisions are compatible with the privilege against self incrimination protected by s 25(2)(k) and/or s 24(1) of the Charter.

Fair hearing and prejudicial publicity

The ability to use compulsory questioning powers in respect of persons who have been charged with an offence has the potential to prejudice a fair trial, particularly if the evidence of that person were to be published. However, the Act contains a number of safeguards to ensure a person's fair trial is not prejudiced, including the requirement to hold examinations in private (s 35), the restrictions on publication (s 43) and the obligation on the Chief Examiner to take all reasonable steps to ensure that the conduct of the examination does not prejudice criminal proceedings of which the Chief Examiner is aware (s 29(3)).

Accordingly, I consider that the provisions are compatible with the right to a fair hearing in s 24(1) of the Charter.

Other rights engaged by the Charter. There is no incompatibility between s 39(1) of the Major Crime Act

The compulsory questioning powers engage a number of other rights protected by the Charter, including:

1. *the right to freedom of movement, through the requirement to attend for questioning; and*
2. *the rights to privacy and freedom of expression, through the requirement to provide information and answer questions.*

However, I consider that the right to privacy is not limited as any interference is neither unlawful nor arbitrary and any limits on freedom of movement and freedom of expression are reasonable and justified in light of the importance of and difficulties in investigating and prosecuting criminal offences of this nature.

The Committee seeks further information as to whether the Commonwealth, Canadian or United Kingdom schemes would reasonably achieve the purpose of protecting confidential intelligence information

The schemes referred to by the Committee in relation to the Commonwealth, Canada and the United Kingdom are significantly different to the statutory scheme of the Major Crime Act and, in my view, are not comparable. The Major Crimes Act provides for compulsory questioning powers in the context of investigations into serious crime. By way of contrast the schemes referred to by the Committee involve court proceedings with the potential to impose very significant and ongoing restrictions on a person's rights, including their liberty.

*In relation to the United Kingdom scheme, for example, a person subject to a control order under the Prevention of Terrorism Act 2005 is subjected to severe restrictions. In *Secretary of the State for the Home Department v MB, AF* was subject to a control order that, among other obligations, confined him to a flat for 18 hours a day.⁴*

Given the nature of such severe restrictions and the consequences of a control order being made by a Court, it is understandable that the House of Lords considered that the Court should have the power to disclose confidential information to a person seeking to challenge such an order where necessary to protect that person's right to a fair hearing.

In relation to the Major Crime Act, a person to whom a coercive powers order applies may be issued with a witness summons to attend an examination with the Chief Examiner to give evidence and/or produce documents or other things. For the reasons already discussed, I consider the statutory scheme of the Major Crime Act is compatible with the Charter. A summons to answer questions does not involve the same extent of restrictions upon liberty, movement or privacy as a control order. The consequences of a person not succeeding in an application for the revocation of a coercive powers order are far less extreme than the consequences of a person not succeeding in challenging a control order.

A more comparable scheme in the United Kingdom would be the investigation powers of the Serious Fraud Office under the Criminal Justice Act 1987 (UK). That Act does not contemplate any disclosure whatsoever of investigatory material nor any ability to challenge the use of co-ercive powers. The co-ercive powers are able to be exercised without a court order.

However, as I stated in the Statement of Compatibility, a person's rights under s 24(1) of the Charter are limited by clauses 4, 14 and 15 of the Bill, as such clauses potentially prevent a person from fully presenting his or her case to a court and from knowing the case against him or her. I consider the limitations are reasonable and justifiable, given that the purpose of the limitations is to protect confidential information, and ultimately to protect the safety of individuals, including members of the police force; persons who have been called or who have appeared as witnesses; informants and persons whose names appears in evidence given.

*The Committee also referred to the Police Integrity Act 2008 (**Police Integrity Act**) and stated that, under that Act, information that a court determines cannot be disclosed to a litigant is excluded from the proceedings altogether. The comparable provisions of the Police Integrity Act relate to the production of protected documents. Where a person*

⁴ [2007] UKHL 46 (31 October 2007) at [6].

subpoenas a 'protected person' (including a person who is or was: the Director; the Acting Director; or a member of staff of the Office of Police Integrity), and the protected person objects to the production of the document or other thing, the protected person must give notice of the objection to each party to the proceeding, indicating the category of the document or other thing, and apply to the court to determine the application:

- (a) by confidential affidavit that is not disclosed to one or more of the parties or any representative of those parties; or*
- (b) at a hearing held in closed court in which the protected person and each party to the proceeding has a right to be heard by the court regarding the objection; or*
- (c) at a hearing held without notice to, and without the presence of, one or more of the parties or any representative of those parties; or*
- (d) by any combination of the methods set out in paragraphs (a), (b) and (c).*

The court must refuse to require production of the document or other thing, or to allow a party to the proceeding to inspect the document or other thing if the court determines that the document or other thing is a protected document or other thing. In such a case, the court's decision to refuse to require production (and to prevent the document or other thing forming part of the evidence of a proceeding) does not assist the person seeking production, as the person is seeking access to the document or other thing to support his or her case. Such a situation is not analogous to one in which the court is considering whether or not to revoke a coercive powers orders and whether or not to allow a person subject to, or potentially subject to, such an order access to confidential information which formed the basis of that order of which the person is probably not aware and which may not relate, in large part, to the person seeking the revocation of the order. It would not be appropriate for a court in such circumstances to not have regard to the confidential information, as it is the confidential information that originally supported the making of the coercive powers order and thus which the court will also need to have regard to when determining whether or not to revoke the relevant order.

The Committee thanks the Minister for this response.

**Committee Room
10 March 2009**

Appendix 1

Index of Bills in 2009

	Alert Digest Nos.
Associations Incorporation Amendment Bill 2008	1
Assisted Reproductive Treatment Bill 2008	1
Bus Safety Bill 2008	1
Criminal Procedure Bill 2008	1, 3
Duties Amendment Bill 2008	1
Equal Opportunity Amendment (Governance) Bill 2008	1
Fair Trading and Other Acts Amendment Bill 2008	1
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Liquor Control Reform Amendment (Enforcement) Bill 2008	1
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Major Sporting Events Bill 2009	3
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Melbourne University Amendment Bill 2009	3
Occupational Health and Safety Amendment (Employee Protection) Bill 2008	1
Relationships Amendment (Caring Relationships) Bill 2008	1
Resources Industry Legislation Amendment Bill 2008	1
Salaries Legislation Amendment (Salary Sacrifice) Act 2008	1
Serious Sex Offenders Monitoring Amendment Act 2009	2
Transport Legislation Amendment (Driver and Industry Standards) Act 2008	1
Transport Legislation General Amendments Bill 2008	1
Transport Legislation Miscellaneous Amendments Bill 2008	1
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)

(vi) inappropriately delegates legislative power

Bus Safety Bill 2008	1
Criminal Procedure Bill 2008	1

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

Bus Safety Bill 2008	1
Major Sporting Events Bill 2009	3
Occupational Health and Safety Amendment (Employee Protection) Bill 2008	1
Salaries Legislation Amendment (Salary Sacrifice) Act 2008	1
Serious Sex Offenders Monitoring Amendment Act 2009	2
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
Port Services Amendment (Public Disclosure) Bill 2008	Hon. David Davis MLC	28.02.08	2 of 2008
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	15 of 2008
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	1 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	Attorney-General	04.02.09	1 of 2009
Salaries Legislation Amendment (Salary Sacrifice) Act 2008	Finance	04.02.09	1 of 2009
Transport Legislation Amendment (Driver and Industry Standards) Act 2008	Public Transport	04.02.09	1 of 2009
Salaries Legislation Amendment (Salary Sacrifice) Act 2008 AND Transport Legislation Amendment (Driver and Industry Standards) Act 2008	Attorney-General	04.02.09	1 of 2009
Serious Sex Offenders Monitoring Amendment Act 2009	Corrections	26.02.09	2 of 2009
Major Sporting Events Bill 2009	Attorney-General	10.03.09	3 of 2009