

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

ANNUAL REVIEW 2011

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Terms of Reference

Section 17 of the *Parliamentary Committees Act 2003* sets out the statutory functions of the Scrutiny of Acts and Regulations Committee. These functions 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 on rights or freedoms;
 - (ii) makes rights, freedoms or obligations dependent on insufficiently defined administrative powers;
 - (iii) makes rights, freedoms or obligations dependent on 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 a Parliament; or
 - (ii) within 10 sitting days after the Act receives Royal Assent –whichever is the later, and to report to the Parliament with respect to that Act on any matter referred to in those paragraphs;
- (d) the functions conferred on the Committee by the *Subordinate Legislation Act 1994*;
- (e) the functions conferred on the Committee by the *Environment Protection Act 1970*;
- (f) the functions conferred on the Committee by the *Co-operative Schemes (Administrative Actions) Act 2001*;
- (fa) the functions conferred on the Committee by the Charter of Human Rights and Responsibilities.
- (g) to review any Act in accordance with the terms of reference under which the Act is referred to the Committee under this Act.

Chairperson's Introduction

I am pleased to present the Scrutiny of Acts and Regulations Committee's Annual Review covering the calendar year 2011. The report covers the activity of the Committee in the first year of the 57th Parliament.

The functions of the Committee are to review all Bills introduced into Parliament, to review regulations, to review and report on redundant or unclear Acts and to undertake specific inquiries that may be referred to the Committee either by a House of the Parliament or by a Minister.

In April 2011 the Committee received a Governor in Council referral to undertake the 4 year review of the Charter of Human Rights and Responsibilities Act 2006 (the 'Charter') under section 44(1) of the Charter. That section required a report to be tabled by 1 October 2011. I wish to acknowledge the considerable and professional contribution of my Committee colleagues and the Committee's advisers and staff in handling this challenging and interesting review. The Committee tabled a very detailed report in September 2011 and I congratulate all concerned in meeting the statutory timetable required by the Charter itself. The Committee made 35 recommendations to Parliament. The government response to the Committee's recommendations was tabled in March 2012.

During the year the Committee was assisted in its human rights scrutiny of Bills and regulations by Associate Professor Jeremy Gans of the University of Melbourne. The Committee thanks Dr Gans for his timely and professional advice.

The Committee was supported during the year by a dedicated secretariat. I take this opportunity to thank our Senior Legal Adviser, Andrew Homer, for effectively leading the secretariat team during the year. The Committee was also fortunate to have experienced guidance in the scrutiny of regulations by our Legal Adviser (Regulations), Helen Mason and effective administration support provided by Simon Dinsbergs and Sonya Caruana.

Edward O'Donohue MLC
Chairperson

April 2012

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 must report to the Parliament whether the Bill is incompatible with human rights.

Annual Review 2011

This report provides an overview of the activities and functions of the Victorian Parliament's Scrutiny of Acts and Regulations Committee (the 'Committee') during the calendar year 2011. The Committee also intends to publish an Annual Review of Regulations considered in 2011¹.

The Committee's reports and other publications (including this review) are available on the Committee's website: www.parliament.vic.gov.au/sarc

The Committee

The Committee is established under the *Parliamentary Committees Act 2003*² (the 'Act') as one of the 12 Joint House Committees of the Victorian Parliament. It is one of six Joint House Committees administered by the Department of the Legislative Assembly. The remaining six Joint House Committees are administered by the Department of the Legislative Council.

Membership of the Committee is drawn from Members of the Legislative Council (the 'Council') and the Legislative Assembly (the 'Assembly') and from both government and opposition members.

Brief history of the Committee

The Committee under its current name was established at the commencement of the 52nd Parliament in November 1992. Previous Chairs of the Committee were –

Mr Victor Perton MLA (LP – Doncaster) – 52nd Parliament

Mr Peter Ryan MLA (NP – Gippsland South) – 53rd Parliament

Ms Mary Gillett MLA (ALP – Werribee) – 54th Parliament

Ms Lily D'Ambrosio MLA (ALP – Mill Park) – 55th Parliament

Mr Carlo Carli MLA (ALP – Brunswick) – 56th Parliament

The Chairperson in the current Parliament (57th) is Mr Edward O'Donohue MLC (LP – Eastern Victoria)

Prior to the Committee in its present form, the Parliament performed a scrutiny of subordinate legislation (regulations) function through the now defunct Legal and Constitutional Committee. Statute law revision Bills were at one time considered by the Statute Law Revision Committee which was established by the Parliament as a specific purpose committee to consider periodic statute law revision Bills.

The Parliaments of the Commonwealth, New South Wales, Queensland and the Australian Capital Territory have parliamentary committees that perform comparable scrutiny of bills functions. All Australian Parliaments have committees that perform scrutiny of regulations.

¹ To be published June 2012.

² *Parliamentary Committees Act 2003*, s. 5(k).

Committee composition and membership

The Act³ requires that a Parliamentary Committee comprise not less than 5 members and not more than 10 members with at least one Member representing each House.

During 2011 the Committee consisted of seven members, five from the Legislative Assembly and two from the Legislative Council. A quorum of the Committee consists of four members.

During 2011 the Committee was composed of four members from the government and three members from the Labor Party. The Chairperson and Deputy Chairperson of the Committee are held respectively by a government and opposition member.

Committee members during 2011

The members of the Committee during 2011 were –

- Mr Edward O’Donohue MLC (Chairperson)
- Hon. Christine Campbell MLA (Deputy Chairperson)
- Mr John Eren MLA
- Mr Michael Gidley MLA
- Mr Don Nardella MLA
- Mr David O’Brien MLC
- Mr Graham Watt MLA

The subcommittees

At the commencement of each newly elected Parliament it is the custom of the Committee to establish, by special resolution the Regulation Review Subcommittee and the Redundant Legislation Subcommittee. The Committee may also, from time to time, establish other subcommittees that may be necessary or desirable to undertake specialist inquiry work.

Regulation Review Subcommittee

The functions of this Subcommittee are to review statutory rules, as defined by the *Subordinate Legislation Act 1994*, against specified terms of reference prescribed in that Act.⁴ Pursuant to other statutory reporting responsibilities, the Subcommittee must also review other certain special subordinate instruments.

The members of the Regulation Review Subcommittee during 2011 were –

- Mr Michael Gidley MLA (Chairperson)
- Mr Edward O’Donohue MLC
- Hon. Christine Campbell MLA
- Mr Don Nardella MLA
- Mr Graham Watt MLA

Redundant Legislation Subcommittee

The Subcommittee was first established as a consequence of a long-standing Governor in Council reference first given to the Committee in 1994. The reference, which had been renewed in previous Parliaments, required the Committee to review and make recommendations concerning certain Acts that may have

³ *Parliamentary Committees Act 2003*, s. 21(1).

⁴ *Subordinate Legislation Act 1994*, s. 21.

been unclear, ambiguous or that may need redrafting. During 2011 the Committee did not have a redundant legislation inquiry to undertake.

Secretariat and consultants

Staffing

The Committee employs a small secretariat staff comprising an Executive Officer (Senior Legal Adviser), a Legal Adviser, Regulations and two administrative support staff. The secretariat of the Committee during 2011 comprised of –

- Mr Andrew Homer, Executive Officer and Senior Legal Adviser
- Ms Helen Mason, Legal Adviser, Regulations
- Mr Simon Dinsbergs, Business Support Officer
- Ms Sonya Caruana, Committee Administrative Officer
- Ms Maria Marasco, Assistant Committee Administrative Officer (Charter Review)

The Committee's office is located at Level 3, 55 St Andrews Place, East Melbourne 3002.

Consultants

During 2011 the Parliament engaged the following consultants to assist the Committee with specialist advice or inquiry assignments –

- Associate Professor Dr Jeremy Gans, Human Rights Adviser (University of Melbourne)⁵
- Dr Charles Parkinson⁶
- Dr Nicole Schlesinger⁷

The Committee's work during 2011

The Committee's work during the year fell into four main areas –

- Scrutiny of Bills introduced into Parliament;⁸
- Scrutiny of subordinate legislation⁹ (regulations) and specified directives and other instruments;¹⁰
- From 1 July 2011 the Committee commenced scrutiny of a new form of subordinate legislation referred to as 'legislative instruments' as defined by section 3 of the *Subordinate Legislation Act 1994*;
- Review of redundant, ambiguous or unclear legislation;

⁵ Committee's human rights adviser and consultant to the review by the Committee of the *Charter of Human Rights and Responsibilities Act 2006*.

⁶ Barrister-at-Law, consultant to the review by the Committee of the *Charter of Human Rights and Responsibilities Act 2006*.

⁷ Equal opportunity and human rights consultant to the review by the Committee of the *Charter of Human Rights and Responsibilities Act 2006*.

⁸ *Parliamentary Committees Act 2003*, ss. 17(a) and (b).

⁹ The scrutiny of statutory rules (regulations) predates the formation of the Committee and was performed by a number of predecessor parliamentary committees such as the Legal and Constitutional Committee (now defunct).

¹⁰ *Co-operative Schemes (Administrative Actions) Act 2001*, s. 4(4)-(9); *Dangerous Goods Act 1985*, s. 9C(4); *Essential Services Commission Act 2001*, ss. 49(11) & 51(2); *Estate Agents Act 1980*, ss. 10C(2) & 45A(2); *Fair Trading Act 1999*, s. 32NA(7); *Fisheries Act 1995*, s. 151(8B); *Fundraising Act 1998*, s. 16A(6); *Port Services Act 1995*, s. 184(1)-(3); *Public Health and Wellbeing Act 2008*, s. 126(4); *Radiation Act 1995*, s. 5(2); *Rail Corporations Act 1996*, s. 38C(2); *Rail Safety Act 2006*, s. 104(3); and *Road Management Act 2004*, ss. 23(4) & 30(2).

- Inquiries or the review of Acts that are referred to the Committee by a resolution of either the Council or the Assembly¹¹ or by a Minister through an Order of the Governor in Council published in the Government Gazette.¹²

Section 17(a) – Scrutiny of Bills

The Committee considered 92 Bills during 2011. Pursuant to section 17(a) the Committee is required to consider any Bill introduced in the Council or the Assembly and report to the Parliament under eight separate heads of scrutiny, numbered sub-paragraphs (i) to (viii) –

- (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;

A list of the Bills considered and the tabling dates of the 15 separate Alert Digests in which they are found is shown in **Appendix 1**. The Bills on which the Committee made a substantive comment based on the respective scrutiny principles is shown in **Appendix 2**.

The Committee’s reporting timetable on Bills

The Committee ordinarily has between two and three weeks to consider and report on a Bill after the Bills second reading in the House where the Bill is introduced. The usual practice of the Houses is to adjourn detailed consideration of a Bill for two weeks. However, this is only a general practice and not a mandatory procedural requirement. Where a Bill is adjourned for 2 weeks (or longer) the Committee will work towards finalising a report (Alert Digest) for tabling at the commencement of a parliamentary sitting week when the resumption of the debate may possibly occur.

On rare occasions an emergency or urgent Bill is introduced in the Parliament and the government indicates its intention to seek immediate passage of the measures after second reading without adjournment. Depending on the terms of reference likely to be engaged by the provisions in such a Bill and member availability, the Committee has previously tabled urgent Alert Digests for the immediate advice of members within its section 17(a) terms of reference. Immediate passage of a Bill does present the Committee with unique challenges in reporting on Bills and in these circumstances the Committee has previously indicated that it may, within its terms of reference, report on a further occasion.

Section 17(a)(viii) – is incompatible with the human rights set out in the Charter of Human Rights and Responsibilities

As was the practice in the previous Parliament, the Committee reported on whether or not Bills or Acts were incompatible with human rights in a separate ‘Charter Report’ that appeared after the Committee’s

¹¹ *Parliamentary Committees Act 2003*, ss. 33(1)(a) and (b).

¹² *Parliamentary Committees Act 2003*, s. 33(1)(b).

commentary on its non-Charter terms of reference. Unlike Statements of Compatibility made by Members who introduce a Bill into Parliament, the Committee's Charter Reports do not discuss all human rights aspects of Bills or Acts, but instead draw the attention of Members to matters that may raise a question of whether or not a Bill or Act is compatible with human rights. In contrast to court Declarations of Inconsistent Incompatibility for statutory provisions, the making of a Charter Report does not necessarily imply any finding by the Committee on the compatibility of a Bill or Act with human rights.

In 2011, fourteen Bills and two Acts were accompanied by Charter Reports, principally in relation to the following human rights:

- **Equality (Charter s. 8):** provisions on building standards;¹³ residential supply of liquor to minors;¹⁴ and exceptions to anti-discrimination laws.¹⁵
- **Movement (Charter s. 12):** provisions on barring orders from the vicinity of licensed venues.¹⁶
- **Privacy (Charter s. 13(a)):** provisions empowering school officials to search students' property;¹⁷ notices to vacate for illegal acts in public housing;¹⁸ and strip searches of youth detainees.¹⁹
- **Expression (Charter s. 15):** an offence of insulting a person exercising powers relating to legacy monitoring systems.²⁰
- **Fair Hearing (Charter s. 24):** fines for members suspended from Parliament;²¹ abolition of pre-parole home detention for existing sentences;²² and restrictions on publishing confidential information relating to water infrastructure charge determinations.²³
- **Presumption of Innocence (Charter s. 25(1)):** a reverse onus relating to first home owner grant applications;²⁴ and an extension of the suspension period for hoon drivers.²⁵
- **Retrials: (Charter s. 26):** restriction on common law double jeopardy protections.²⁶
- **Retrospective Criminal Law (Charter s. 27):** transitional arrangements for intensive corrections management orders;²⁷ and a retrospective reclassification of certain infringement offences.²⁸

Charter Reports prompted legislative changes on two occasions: a bill amending the *Equal Opportunity Act 2010* responded to some aspects of the previous Committee's Charter Report on the Bill for that Act;²⁹ and the Charter Report on the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011

¹³ *Alert Digest No. 1 of 2011* (reporting on the Building Amendment Bill 2011)

¹⁴ *Alert Digest No. 3 of 2011* (reporting on the Liquor Control Reform Amendment Bill 2011)

¹⁵ *Alert Digest No. 5 of 2011* (reporting on the Equal Opportunity Amendment Bill 2011)

¹⁶ *Alert Digest No. 2 of 2011* (reporting on the Justice Legislation Amendment Bill 2011)

¹⁷ *Alert Digest No. 1 of 2011* (reporting on the Education and Training Reform Amendment (School Safety) Bill 2010)

¹⁸ *Alert Digest No. 3 of 2011* (reporting on the Residential Tenancies Amendment (Public Housing) Bill 2011)

¹⁹ *Alert Digest No. 11 of 2011* (reporting on the Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011)

²⁰ *Alert Digest No. 11 of 2011* (reporting on the Gambling Regulation Amendment (Licensing) Bill 2011)

²¹ *Alert Digest No. 3 of 2011* (reporting on the Parliamentary Salaries and Superannuation Amendment Bill 2011)

²² *Alert Digest No. 7 of 2011* (reporting on the Sentencing Legislation Amendment (Abolition of Home Detention) Bill 2011)

²³ *Alert Digest No. 12 of 2011* (reporting on the Water Legislation Amendment (Water Infrastructure Charges) Bill 2011)

²⁴ *Alert Digest No. 5 of 2011* (reporting on the State Taxation Acts Amendment Bill 2011)

²⁵ *Alert Digest No. 6 of 2011* (reporting on the Road Safety Amendment (Hoon Drivers and Other Matters) Bill 2011)

²⁶ *Alert Digest No. 14 of 2011* (reporting on the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011)

²⁷ *Alert Digest No. 1 of 2011* (reporting on the *Sentencing Amendment Act 2010*)

²⁸ *Alert Digest No. 7 of 2011* (reporting on the *Justice Legislation Amendment (Infringement Offences) Act 2011*)

²⁹ *Equal Opportunity Amendment Act 2011*, s. 27, inserting a new s. 176A into the *Equal Opportunity Act 2010*.

prompted a house amendment to allow persons acquitted of child homicide to be retried where there is fresh and compelling evidence of their guilt.³⁰

This year saw the first two occasions when the Charter was considered in the High Court of Australia. In *Hogan v Hinch*, the Court cited the Charter's interpretive provision as one reason to interpret a publication ban on the identity of monitored sex offenders in a narrow way that preserved the statute's constitutionality.³¹ In *Momcilovic v R*, a majority of the Court dismissed a constitutional challenge to the Charter's declaration provisions, but also quashed the first (and, to date, only) declaration of inconsistent interpretation issued under the Charter.³²

The year was also notable for the federal parliament's adoption of a version of the Charter's parliamentary scrutiny provisions, including the creation of a new Joint Committee on Human Rights with functions that include reporting on the human rights compatibility of federal bills and regulations.³³ In its own report in fulfilment of the Charter's requirement of a four-year review of the statute's operation, the Committee unanimously supported the retention of parliamentary human rights

Section 17(b) – Section 85, Constitution Act 1975 – Limitation on the jurisdiction of the Supreme Court

Pursuant to section 17(b) of the *Parliamentary Committees Act 2003*, the Committee has a statutory reporting responsibility in relation to Bills which include provisions that repeal, alter or vary the unlimited jurisdiction of the Supreme Court. This responsibility has a nexus to the unique 'manner and form' requirements found in section 85 of the *Constitution Act 1975*.³⁴ The Act requires the Committee to report to the Parliament as to whether such provisions are, in all the circumstances, appropriate and desirable.

Of the 92 Bills considered in 2011 only one Bill (1)³⁵ contained a section 85 *Constitution Act 1975* provision. In comparison in 2010 of the 98 Bills introduced three Bills (3) contained a section 85 provision. The Bills containing section 85 *Constitution Act 1975* provisions are listed in a section of **Appendix 2**.

Section 17(c) – Jurisdiction to report to the Parliament where the Committee has not been able to report on an Act while it was a Bill

On rare occasions the Committee may not be able to report on a Bill because urgent legislation receives speedy passage through both Houses and becomes an Act before the Committee is able to table a report on the next sitting day of Parliament. In these circumstances section 17(c) allows the Committee to prepare and table a report in two situations –

- (1) Within 30 days immediately after the first appointment of members of the Committee after the commencement of each Parliament; and
- (2) Within 10 sitting days after the Act receives Royal Assent –
which ever is the later.

³⁰ *Criminal Procedure Amendment (Double Jeopardy and Other Matters) Act 2011*, s. 17, inserting a new s. 327M(2)(g) into the *Criminal Procedure Act 2009*.

³¹ *Hogan v Hinch* [2011] HCA 4.

³² *Momcilovic v R* [2011] HCA 34.

³³ *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

³⁴ The *Constitution Act 1975* requires provisions that engage section 85 to be passed by an absolute majority of both Houses of the Parliament and that a member introducing such a provision make a section 85 Statement either when the Bill is second read or before the third reading of the Bill. For the provision to be effective the Bill must specifically declare the intention of the provision to repeal, alter or vary the jurisdiction of the Supreme Court of Victoria.

³⁵ *Commercial Arbitration Bill 2011*

In either of these cases the Committee report will note the use of the section 17(c) power at the commencement of the report on that Act.

Under this term of reference in 2011 the Committee reported on the *Aboriginal Heritage Amendment Bill 2011*, the *Domestic Animals Amendment (Restricted Breeds) Act 2011*, the *Sentencing Amending Act 2010* and the *Justice Legislation Amendment (Infringement Offences) Act 2011*.

In respect to the last of these Acts the Committee also reported on the Act when it was a Bill. The further report enabled the Committee and the Parliament to consider retrospective House amendments made to the Bill after the Committee had tabled its Alert Digest.

Submissions on Bills during 2011

Within the relevant terms of reference the Committee welcomes public submissions concerning Bills currently before the Parliament. The Committee is aware of the time constraints applying to such submissions. The strict timelines for making submissions arise from the necessity for the Committee to table a report on Bills for the assistance of Members prior to the resumption of the debate after the second reading speech is delivered. Notwithstanding this tight timetable may mean that as little as 2 weeks may be available for the receipt of written submissions from the time it is introduced in the Parliament.

Where need arises and time permits, the Committee reserves the right to invite evidence to be given before it at a private or public hearing. In special circumstances the Committee may delay making a report on a Bill in order to hold public hearings or receive written submissions. During 2011 the Committee received submissions in respect of the following Bills –

- *Justice Legislation Amendment (Infringement Offences) Bill 2011* – Alert Digest No. 5 of 2011
- *Justice Legislation Amendment (Protective Services Officers) Bill 2011* – Alert Digest No. 8 of 2011

Public hearings on Bills in 2011

The Committee did not hold public hearings in respect to any Bills considered in 2011.

Other public hearings and briefings

During 2011 the Committee held five (5) days of public hearings from 18 July 2011 and 22 July 2011 in the course of its inquiry and review of the *Charter of Human Rights and Responsibilities Act 2006*. The Committee received 329 written submissions from persons and organisations addressing the terms of reference. The Committee also received over 3500 short or pro forma submissions and comments and a further 183 submissions that did not address the terms of reference. A list of witnesses selected from the substantive written submissions is provided in Appendix C of the Committee's final report tabled in Parliament in September 2011.

In respect to the Charter review the Committee also held private meetings with Dr Helen Szoke the then Commissioner of the Victorian Equal Opportunity and Human Rights Commission and with Professor Frank Brennan the former Chairperson of the National Human Rights Consultation Committee.

A selection of noteworthy Bills considered by the Committee in 2011

1. New principal Acts

The *Independent Broad-based Anti-corruption Commission Bill 2011* established the Independent Broad-based Anti-corruption Commission consisting of one Commissioner as an independent officer of the Parliament appointed by the Governor in Council.

The *Multicultural Victoria Bill 2011* to re-establish the Victorian Multicultural Commission, state the principles of multiculturalism and provide for the establishment of regional advisory councils.

The **Public Interest Monitor Bill 2011** to provide public interest advocacy and oversight concerning use of covert operations in Victoria.

The **Regional Growth Fund Bill 2011** to establish a fund in the Public Account as part of the Trust Fund to be called the Regional Growth Fund.

The **Road Safety Camera Commissioner Bill 2011** established the office of Road Safety Camera Commissioner to oversight the road safety camera system, receive and investigate complaints concerning the system.

The **Victorian Commission for Gambling and Liquor Regulation Bill 2011** established the Victorian Commission for Gambling and Liquor Regulation responsible for both gambling and liquor licensing.

The **Victorian Inspectorate Bill 2011** to provide oversight of the Independent Broad-based Anti-corruption Commission. The Inspector appointed under the Act is an independent officer of the Parliament.

The **Victorian Responsible Gambling Foundation Bill 2011** established the Victorian Responsible Gambling Foundation

2. Amending Acts

The **Crimes Amendment (Bullying) Bill 2011** allowing the stalking offence in section 21A of the *Crimes Act 1958* to apply to conduct defined by the Bill as bullying.

The **Criminal Procedure (Double Jeopardy and Other Matters) Bill 2011** to reform the common law and other statutory provisions applicable to double jeopardy whereby a previous acquittal or previous conviction is a bar to subsequent proceedings for the same offence.

The **Equal Opportunity Amendment Bill 2011** amended the constitution, functions and powers of the Victorian Equal Opportunity and Human Rights Commission and amended or created a number of exception and exemption substantive provisions in the principal Act.

The **Justice Legislation Amendment (Protective Services Officers) Bill 2011** to amend a number of law enforcement Acts to provide Protective Services Officers certain law enforcement powers whilst on duty in designated places.

The **Parliamentary Salaries and Superannuation Amendment Bill 2011** to provide for a fine to be imposed on a member who is suspended after being named.

The **Police Regulation Amendment (Protective Services Officers) Bill 2011** to broaden the purposes and functions for which Protective Services Officers may be appointed and remove the cap on the maximum number of appointments that may be made to such positions.

The **Sentencing Amendment (Community Correction Reform) Bill 2011** created a single community correction order and abolished a number of former sentencing options within the sentencing hierarchy between fine and imprisonment.

The **Sentencing Further Amendment Bill 2011** to remove the suspended sentence sentencing option for certain serious offences.

The **Terrorism (Community Protection) Amendment Bill 2011** to amend the reporting date requirement for the review of the operation of the Terrorism (Community Protection) Act 2003. The report must now be undertaken by 30 June 2013 not by 30 June 2011.

3. Private Members Bills

The **Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011** to establish a deposit and recovery scheme for beverage containers. The Bill was not passed in 2011.

The *Members of Parliament (Serious Misconduct) Amendment Bill 2011* to create an offence for a Member of Parliament or a Minister who engages in serious misconduct through their position or office. The Bill was not passed in 2011.

4. Statute Law Revision Bills

The *Statute Law Revision Bill 2011* made minor miscellaneous amendments to over 110 Acts and repealed 17 principal Acts and a further 10 amending Acts.

Ministerial correspondence related to Bills

Ministerial response turnaround time varies greatly, some Ministers responding to the Committee's correspondence within days and others regrettably over much longer periods. The Committee considers that responses should be received promptly in order to inform the debate in Parliament on the matters of concern identified by the Committee, where possible prior to the Bills passage through both Houses. On occasion the Committee has needed to follow up correspondence with a courtesy reminder letter. In 2011 the longest delays in receiving a Minister's response was 6 weeks in relation to the *Justice Legislation Amendment (Infringement Offences) Act 2011*. The fastest responses were 10 days in respect to the *Criminal Procedure (Double Jeopardy and Other Matters) Bill 2011* and 12 days in respect to the *Justice Legislation Amendment Bill 2011*.

The results of the Committee's work

One of the main functions of the Committee is to review Bills introduced into a House of the Parliament and to report to the Parliament on the use of certain legislative practices in those Bills. The heads of legislative scrutiny are listed in sections 17(a)(i) to (viii) of the Act. The ongoing feedback the Committee receives suggests that Members are assisted by the information provided in Alert Digests, which often include important extracts from the second reading speech and the explanatory memorandum.

Scrutiny of Subordinate Legislation

Section 17(d) – Subordinate Legislation Act 1994

The Regulation Review Subcommittee (the 'Subcommittee') held 10 meetings during 2011 and considered 190 statutory rules in total. Of those rules 14 were accompanied by Regulatory Impact Statements. From 1 July 2011 the Subcommittee also reviewed a new category of subordinate legislation characterised as Legislative Instruments. There were four such instruments during the second half of 2011. All statutory rules reviewed by the Subcommittee during 2011 are shown at **Appendix 5**. The Subcommittee did not make any adverse reports during 2011 concerning regulations. However, of the statutory rules examined the Subcommittee had concerns in respect to three statutory rules. In each case the Subcommittee wrote to the responsible Ministers seeking clarification and received satisfactory responses to the issues raised. The Committee intends to release its Annual Review of Statutory Rules 2011 series in mid 2012.

Section 17(e) – Environment Protection Act 1970

In 2011 the Regulation Review Subcommittee did not consider any State environment protection policies or waste management policies under this term of reference.

Other referrals to the Committee

Section 17(f) – Reports pursuant to the Co-operative Schemes (Administrative Actions) Act 2001

The Committee was not required to report to the Parliament during 2011 on any Act sought to be declared pursuant to the *Co-operative Schemes (Administrative Actions) Act 2001*.

Section 17(g) – Review of Acts referred to the Committee

The Committee was not required to report to the Parliament during 2011 on any Act under this subsection of the Act.

Section 33 – Referrals to Joint Investigatory Committees

The review of the *Charter of Human Rights and Responsibilities Act 2006* was referred to the Committee on 19 April 2011. The Committee tabled its report in September 2011.

Committee budget and expenditure³⁶

	2009/2010	2010/2011	2011/2012
Budget	\$577,591	\$427,267	\$630,200 ³⁷
Actual	\$542,531	\$450,646 ³⁸	

Committee publications released during 2011

The Committee has published the following reports and papers in print and also on its website during 2011 –

- *Alert Digests Nos. 1 to 15*, March to December 2011
- *Report on the Statute Law Revision Bill 2011*, March 2011
- *Annual Review 2010*, May 2011
- *Annual Review 2010, Regulations 2010*, June 2011
- *Review of the Charter of Human Rights and Responsibilities Act 2006*, September 2011

A chronological list of all Committee reports and publications dating from the inception of the Committee in 1992 to the present day is provided in **Appendix 4**.

Reports due for publication during 2012

- *Alert Digests of 2012*, from February to December 2012
- *Annual Review 2012, Regulations 2011*, mid-2012

Committee website


The Committee continues to maintain a comprehensive and frequently updated website. Committee reports, including Alert Digests, are usually added to the website within 24 hours of being tabled.

The Committee’s website also includes the contact and membership details of counterpart Australasian scrutiny committees.


³⁶ Budgets and expenditure include current inquiry budgets, staff salaries, superannuation and training, office expenses, Members allowances and interstate and overseas travel.


³⁷ Six months to 31 December 2011 actual expenditure of \$312,798 or 49.6% of Budget. The increased budget reflects funding provided for the review of the *Charter of Human Rights and Responsibilities Act 2006*.

³⁸ Actual expenditure exceeded budget as additional funds were allocated to commence the review on *Charter of Human Rights and Responsibilities Act 2006*.



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JOINT INVESTIGATORY COMMITTEES

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SCRUTINY OF ACTS AND REGULATIONS

The Scrutiny of Acts and Regulations Committee is a Joint Investigatory Committee of the Parliament of Victoria.

The Committee was established under the *Parliamentary Committees Act 2003* and its members have been drawn from both the Legislative Assembly and the Legislative Council. In the 57th Parliament of Victoria, its members were appointed in the sitting week commencing Tuesday 8 February 2011.

For further details, contact the [Committee Secretariat](#).

Latest News

Charter Review Report tabled

The Final Report of the Review of the Victorian Charter of Human Rights and Responsibilities Act 2006 was tabled in the Parliament on Wednesday 14 September 2011.

The report can be downloaded from the [Review website](#).

Report Tabled - Alert Digest No 1 of 2012

Alert Digest No 1 of 2012 tabled on 7 February 2012. See [here](#).

Charter Review - Public Hearings

The Scrutiny of Acts and Regulations Committee will be holding public hearings between Monday, 18 to Friday, 22 July 2011 for its Review of the Charter of Human Rights and Responsibilities Act. Details of witness and transcripts can be found [here](#).

Latest Inquiries

- [Scrutiny of Bills](#)
- [Practice Notes](#)
- [Scrutiny of Regulations](#)
- [Review of the Victorian Charter of Human Rights and Responsibilities Act 2006](#)

Appendix 1

Index of Bills Reported – 2011

	Alert Digest Nos.
Aboriginal Heritage Amendment Act 2011	8
Accident Towing Services Amendment Bill 2011	5
Appropriation (2011/2012) Bill 2011	5
Appropriation (Parliament 2011/2012) Bill 2011	5
Building Amendment Bill 2011	1, 2
Bushfires Royal Commission Implementation Monitor Bill 2011	1
Business Names (Commonwealth Powers) Bill 2011	13
Children’s Services Amendment Bill 2011	12
Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011	11, 12
City of Greater Geelong Amendment Bill 2011	15
City of Melbourne Amendment Bill 2011	14
Civil Procedure and Legal Profession Amendment Bill 2011	1
Civil Procedure Bill 2010	1
Commercial Arbitration Bill 2011	9
Consumer Acts Amendment Bill 2011	6
Country Fire Authority Amendment (Volunteer Charter) Bill 2011	2
Crimes Amendment (Bullying) Bill 2011	4
Crimes and Domestic Animals Acts Amendment (Offences and Penalties) Bill 2011	11
Criminal Procedure (Double Jeopardy and Other Matters) Bill 2011	14, 15
Dental Hospital Land Bill 2011	4
Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011	14
Domestic Animals Amendment (Restricted Breeds) Act 2011	10
Drugs, Poisons and Controlled Substances Amendment (Drugs of Dependence) Bill 2011	8
Drugs, Poisons and Controlled Substances Amendment (Prohibition of Display and Sale of Cannabis Water Pipes) Bill 2011	10
Education and Training Reform Amendment (School Safety) Bill 2010	1, 3
Education and Training Reform Amendment (Skills) Bill 2011	14
Electricity Industry (Transitional Feed-in Tariff Scheme) Bill 2011	12
Electronic Transactions (Victoria) Amendment Bill 2011	10
Emergency Management Legislation Amendment Bill 2011	11, 14
Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Bill 2011	11
Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011	7
Environment Protection Amendment (Landfill Levies) Bill 2011	5
Equal Opportunity Amendment Bill 2011	5
Extractive Industries (Lysterfield) Amendment Bill 2011	10
Family Violence Protection Amendment (Safety Notices) Bill 2011	4
Farm Debt Mediation Bill 2011	8
Fisheries Amendment Bill 2011	3
Gambling Regulation Amendment (Licensing) Bill 2011	10, 11, 12
Health Practitioner Regulation National Law (Victoria) Amendment Bill 2011	6
Health Services Amendment (Health Innovation and Reform Council) Bill 2011	3
Independent Broad-based Anti-corruption Commission Bill 2011	13
Justice Legislation Further Amendment Bill 2011	13
Justice Legislation Amendment Bill 2011	2, 3
Justice Legislation Amendment (Infringement Offences) Bill 2011	5
Justice Legislation Amendment (Infringement Offences) Act 2011	7, 8
Justice Legislation Amendment (Protective Services Officers) Bill 2011	8
Leo Cussen Institute (Registration as a Company) Bill 2011	13
Liquor Control Reform Amendment Bill 2011	3, 4

Liquor Control Reform Further Amendment Bill 2011	13
Local Government Amendment (Electoral Matters) Bill 2011	8
Members of Parliament (Serious Misconduct) Amendment Bill 2011	15
Mines (Aluminium Agreement) Amendment Bill 2011	13
Multicultural Victoria Bill 2011	3
Parks and Crown Land Legislation Amendment Bill 2011	13
Parliamentary Committees Amendment Bill 2011	2
Parliamentary Salaries and Superannuation Amendment Bill 2011	3
Parliamentary Salaries and Superannuation Further Amendment Bill 2011	9
Planning and Environment Amendment (Hoon Driving and Other Matters) Bill 2011	6
Planning and Environment Amendment (Schools) Bill 2011	13
Police Regulation Amendment (Protective Services Officers) Bill 2010	1
Public Holidays Amendment Bill 2011	4
Public Interest Monitor Bill 2011	13
Public Prosecutions Amendment Bill 2011	13
Regional Growth Fund Bill 2011	2
Residential Tenancies Amendment (Public Housing) Bill 2011	3
Resources Legislation Amendment Bill 2011	9, 12
Road Safety Amendment (Hoon Driving and Other Matters) Bill 2011	6
Road Safety Camera Commissioner Bill 2011	6
Sentencing Amendment Act 2010	1, 4
Sentencing Amendment (Community Correction Reform) Bill 2011	11, 13
Sentencing Further Amendment Bill 2010	1
Sentencing Legislation Amendment (Abolition of Home Detention) Bill 2011	7
Serious Sex Offenders (Detention and Supervision) Bill 2011	13
Sex Work and Other Acts Amendment Bill 2011	12
Shop Trading Reform Amendment (Easter Sunday) Bill 2011	1
Shrine of Remembrance Bill 2011	1
State Taxation Acts Amendment Bill 2011	5
State Taxation Acts Further Amendment Bill 2011	13
Statute Law Revision Bill 2011	1
Terrorism (Community Protection) Amendment Bill 2011	6
Transport Legislation Amendment (Marine Safety and Other Matters) Bill 2011	14
Transport Legislation Amendment (Port of Hastings Development Authority) Bill 2011	6
Transport Legislation Amendment (Public Transport Development Authority) Bill 2011	11, 14
Transport Legislation Amendment (Public Transport Safety) Bill 2011	8
Transport Legislation Amendment (Taxi Services Reform and Other Matters) Bill 2011	6
Victoria Law Foundation Amendment Bill 2011	1
Victorian Commission for Gambling and Liquor Regulation Bill 2011	11
Victorian Inspectorate Bill 2011	13
Victorian Responsible Gambling Foundation Bill 2011	12
Victorian Urban Development Authority Amendment (Urban Renewal Authority Victoria) Bill 2011	6
Water Legislation Amendment (Water Infrastructure Charges) Bill 2011	12
Wills Amendment (International Wills) Bill 2011	14

Alert Digest tabling dates 2011

Alert Digest No. 1	1 March 2011
Alert Digest No. 2	22 March 2011
Alert Digest No. 3	5 April 2011
Alert Digest No. 4	3 May 2011
Alert Digest No. 5	23 May 2011
Alert Digest No. 6	14 June 2011
Alert Digest No. 7	28 June 2011
Alert Digest No. 8	16 August 2011
Alert Digest No. 9	30 August 2011
Alert Digest No. 10	13 September 2011
Alert Digest No. 11	11 October 2011
Alert Digest No. 12	25 October 2011
Alert Digest No. 13	8 November 2011
Alert Digest No. 14	22 November 2011
Alert Digest No. 15	6 December 2011

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)

(ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers

Emergency Management Legislation Amendment Bill 2011 11

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

Justice Legislation Amendment Bill 2011 2

(vi) inappropriately delegates legislative power

Sentencing Amendment (Community Correction Reform) Bill 2011 11

Transport Legislation Amendment (Public Transport Development Authority) Bill 2011 11

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

Building Amendment Bill 2011 1

Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011 11

Criminal Procedure (Double Jeopardy and Other Matters) Bill 2011 14

Education and Training Reform Amendment (School Safety) Bill 2010 1

Gambling Regulation Amendment (Licensing) Bill 2011 11

Justice Legislation Amendment Bill 2011 2

Justice Legislation Amendment (Infringement Offences) Act 2011 7

Liquor Control Reform Amendment Bill 2011 3

Sentencing Amendment Act 2010 1

Water Legislation Amendment (Water Infrastructure Charges) Bill 2011 12

Section 17(b)

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

Commercial Arbitration Bill 2011 9

Appendix 3

Ministerial Correspondence 2011

Table of correspondence between the Committee and Ministers during 2011

Bill Title	Minister/ Member	Date of Committee Letter / Minister's Response	Alert Digest No. Issue raised / Response Published
Building Amendment Bill 2011	Minister for Planning	01.03.11 21.03.11	1 of 2011 2 of 2011
Education and Training Reform Amendment (School Safety) Bill 2010	Minister for Education	01.03.11 28.03.11	1 of 2011 3 of 2011
Justice Legislation Amendment Bill 2011	Minister for Consumer Affairs	22.03.11 04.04.11	2 of 2011 3 of 2011
Sentencing Amendment Act 2010	Attorney-General	01.03.11 05.04.11	1 of 2011 4 of 2011
Liquor Control Reform Amendment Bill 2011	Consumer Affairs	05.04.11 21.04.11	3 of 2011 4 of 2011
State Taxation Acts Amendment Bill 2011	Treasurer	25.05.11 09.06.11	5 of 2011 6 of 2011
Justice Legislation Amendment (Infringement Offences) Act 2011	Attorney-General	28.06.11 12.08.11	7 of 2011 8 of 2011
Resources Legislation Amendment Bill 2011	Minister for Energy and Resources	30-08-11 15-09-11	9 of 2011 12 of 2011
Children, Youth and Families Amendment (Security of Youth Justice Facilities) Bill 2011	Minister for Community Services	11-10-11 21-10-11	11 of 2011 12 of 2011
Gambling Regulation Amendment (Licensing) Bill 2011	Minister for Gaming	11-10-11 21-10-11	11 of 2011 12 of 2011
Sentencing Amendment (Community Correction Reform) Bill 2011	Attorney-General	11-10-11 03-11-11	11 of 2011 13 of 2011
Emergency Management Legislation Amendment Bill 2011	Minister for Police and Emergency Services	11-10-11 09-11-11	11 of 2011 14 of 2011
Transport Legislation Amendment (Public Transport Development Authority) Bill 2011	Minister for Public Transport	11-10-11 04-11-11	11 of 2011 14 of 2011
Criminal Procedure (Double Jeopardy and Other Matters) Bill 2011	Attorney-General	22-11-11 02-12-11	14 of 2011 15 of 2011

Appendix 4

Committee Reports and Other Papers

Chronological Listing of Committee Reports and Other Papers

Reports to Parliament	
Alert Digest Nos. 1 to 10; Cumulative Report Nos. 1 and 2	March to May 1993
First Report on Subordinate Legislation, Annual Report concerning Statutory Rules Series 1991	March 1993
Second Report on Subordinate Legislation, Port of Melbourne Authority (Transport, Handling and Storage of Dangerous Substances and Oils) Regulations 1992	March 1993
Operation of the Subordinate Legislation Act 1962	March 1993
Commencement by Proclamation	April 1993
First Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Local Government (Reporting and Accounting) Regulations 1993	May 1993
Report by the Honourable B.A.E. Skeggs, MLC	
Discussions with the Select Committee on the Scrutiny of Delegated Powers, House of Lords, Westminster	October 1993
Third Report on Subordinate Legislation, Annual Report concerning Statutory Rules Series 1992	October 1993
Review of the Victorian Equal Opportunity Act 1984, Interim Report	October 1993
Report upon an Inquiry into the Operation of the Subordinate Legislation Act 1962	November 1993
Second Report on the Operation of Section 32 of the Interpretation of Legislation Act 1984 concerning: Water (Annual Reporting) (Amendment) Regulations 1993	November 1993
Review of the Victorian Equal Opportunity Act 1984, Final Report	November 1993
Proceedings of the Australasian and Pacific Conference on Delegated Legislation and Scrutiny of Bills, July 1993	November 1993
World Conference on Human Rights, Austria	November 1993
Reports to Parliament	
Alert Digest Nos. 11 to 20 of 1993	July to November 1993
Fourth Report on Subordinate Legislation, Land Tax (Further Amendment) Regulations 1993	March 1994
Scrutiny of Acts and Regulations Committee, First Annual Report	April 1994
Reports to Parliament	
Alert Digest Nos. 1 to 7 of 1994	March to May 1994
Redundant and Unclear Legislation, First Report	November 1994
Fifth Report on Subordinate Legislation, Annual Report concerning Statutory Rules Series 1993	November 1994
Report on the Australian Federalism Conference, July 1994	November 1994
Reports to Parliament	
Alert Digest Nos. 8 to 14 of 1994	August to November 1994
Sixth Report on Subordinate Legislation, Stock (Hormonal Growth Promotants Status Declarations) Regulations 1994	March 1995
Scrutiny of Acts and Regulations Committee, Second Annual Report	March 1995
Possible repeal of the Carriers and Innkeepers Act 1966, Discussion Paper	April 1995
Seventh Report on Subordinate Legislation, Environment Protection (Scheduled Premises and Exemptions) Regulations 1994	May 1995
Discussion Paper No. 1, Section 85 of the Constitution Act 1975	May 1995
Reports to Parliament	
Alert Digest Nos. 1 to 8 of 1995	March to June 1995

Scrutiny of Acts and Regulations Committee

Discussion paper No. 1 on the Scrutiny of National Scheme Legislation and the Desirability of Uniform Scrutiny Principles	August 1995
Eight Report on Subordinate Legislation, Annual Report concerning Statutory Rules Series 1994	September 1995
Redundant and Unclear Legislation, Review of the Trade Unions Act 1958	November 1995
Redundant and Unclear Legislation, Second Report	November 1995
Reports to Parliament	
Alert Digest Nos. 9 to 14 of 1995	August to November 1995
Review of the Evidence Act 1958 (Vic) and Review of the Role and appointment of Public Notaries	October 1996
Scrutiny of Acts and Regulations Committee, Third Annual Report	November 1996
Redundant and Unclear Legislation, Review of the Hire Purchase Act 1959	December 1996
Redundant and Unclear Legislation, Review of Unlawful Assemblies and Processions Act 1958, Issues Paper	December 1996
Abalone – Taking Stock – Information Paper	
Review of the Fisheries (Abalone) Regulations 1996 under the Subordinate Legislation Act 1994	December 1996
Reports to Parliament	
Alert Digest Nos. 1 to 10 of 1996	March 1997
Scrutiny of Acts and Regulations Committee, Fourth Annual Report	April 1997
Ninth Report on Subordinate Legislation, Annual Report Concerning Statutory Rules Series 1995 and 1996	May 1997
Redundant and Unclear Legislation, Third Report	December 1997
Reports to Parliament	
Alert Digest Nos. 1 to 12 of 1997	December 1997
Redundant and Unclear Legislation, Review of the Carriers and Innkeepers Act 1958	May 1998
Tenth Report on Subordinate Legislation, Annual Report Concerning Statutory Rules Series 1997	May 1998
Scrutiny of Acts and Regulations Committee, Fifth Annual Report	May 1998
The Right to Silence: An Examination of the Issues, Discussion Paper	June 1998
Reports to Parliament	
Alert Digests Nos. 1 to 8 of 1998	December 1998
Inquiry into the Right to Silence, Final Report	March 1999
Scrutiny of Acts and Regulations Committee, Sixth Annual Report	May 1999
Eleventh Report on Subordinate Legislation, Annual Report concerning Statutory Rules Series 1998	May 1999
Redundant and Unclear Legislation, Review of the Unlawful Assemblies and Processions Act 1958	May 1999
Reports to Parliament	
Alert Digests Nos. 1 to 6 of 1999	September 1999
Redundant and Unclear Legislation, Review of the Constitutional Convention Act 1972	May 2000
Report on the Statute Law Revision Bill	October 2000
Inquiry into the Subordinate Legislation Act 1994, Discussion Paper	November 2000
Reports to Parliament	
Alert Digests Nos. 1 to 11 of 2000	February 2001
Scrutiny of Acts and Regulations Committee, Annual Review 2000	February 2001
Committee Newsletter No. 1	March 2000
Annual Review 2000, Regulations 1999 and 2000	April 2001
Redundant and Unclear Legislation, Inquiry into the Summary Offences Act 1966, Discussion Paper	May 2001
Report on an Interim Privacy Code for Members of the Victorian Parliament	May 2001
Committee Newsletter No. 2	August 2001
Privacy Code for Members of the Victorian Parliament, Frequently Asked Questions and Compliance Checklist	October 2001
Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the National Crime Authority (State Provisions) Act 1984 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	November 2001
Redundant and Unclear Legislation, Inquiry into the Summary Offences Act 1966, Final Report	November 2001
Reports to Parliament	
Alert Digests Nos. 1 to 13 of 2001	February 2002
Scrutiny of Acts and Regulations Committee, Annual Review 2001	February 2002

Report pursuant to Parliamentary Committees Act 1968, section 4D(cb) concerning the intended declaration and proclamation of the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 as a relevant State Act for the purposes of the Co-operative Schemes (Administrative Actions) Act 2001	February 2002
Final Report on a Privacy Code of Conduct for Members of the Victorian Parliament	March 2002
Report on the Statute Law (Further Revision) Bill	March 2002
Review of the Vagrancy Act 1966, Discussion Paper	April 2002
Improving Victoria's Parliamentary Committee System	May 2002
Parliamentary Review of ANZAC Day Laws, Discussion Paper	June 2002
Committee Newsletter No. 3	July 2002
Inquiry into Electronic Democracy, Discussion Paper	September 2002
Review of the Vagrancy Act 1966, Final Report	September 2002
Inquiry into the Subordinate Legislation Act 1994	September 2002
Annual Review 2001, Regulations 2001	October 2002
Parliamentary Review of ANZAC Day Laws, Report	October 2002
Reports to Parliament	
Alert Digests Nos. 1 to 9 of 2002	April 2003
Annual Review 2002	August 2003
Annual Review 2002, Regulations 2002	November 2003
Discrimination in the Law, Discussion Paper	December 2003
Reports to Parliament	
Alert Digests Nos. 1 to 9 of 2003	February 2004
Annual Review 2003	May 2004
Annual Review 2003, Regulations 2003	May 2004
Victorian Electronic Democracy, Discussion Paper	November 2004
Redundant and Unclear Legislation, Report concerning the Maintenance Act 1965, Marriage Act 1958 and the Perpetuities and Accumulations Act 1968	November 2004
Victorian Electronic Democracy, Report on Evidence Obtained in North America – August 2004	November 2004
Discrimination in the Law, Progress Report: Summary of Submissions, Statutory Compliance Defences and Human Rights Protections	December 2004
Report on the Statute Law Revision Bill	February 2005
Reports to Parliament	
Alert Digests Nos. 1 to 11 of 2004	March 2005
Annual Review 2004	March 2005
Annual Review 2004, Regulations 2004	May 2005
Victorian Electronic Democracy, Final Report	May 2005
Discrimination in the Law, Interim Report	June 2005
Discrimination in the Law, Final Report	September 2005
Reports to Parliament	
Alert Digests Nos. 1 to 13 of 2005	March 2006
Annual Review 2005	March 2006
Report on the Statute Law (Further Revision) Bill	March 2006
Annual Review 2005, Regulations 2005	July 2006
Reports to Parliament	
Alert Digests Nos. 1 to 12 of 2006	November 2006
Report on the Statute Law Repeals Bill 2006	April 2007
Report on the Statute Law Revision Bill 2006	May 2007
Annual Review 2006	August 2007
Annual Review 2006, Regulations 2006	August 2007
Report on the Legislation Reform (Repeals No. 1) Bill 2007	October 2007
Report on the Legislation Reform (Repeals No. 2) Bill 2007	February 2008
Annual Review 2007	April 2008
Report on the Legislation Reform (Repeals No. 3) Bill 2007	May 2008

Scrutiny of Acts and Regulations Committee

Report on the Police Integrity Bill 2008	June 2008
Annual Review 2007, Regulations 2007	August 2008
Redundant Corporations Laws	December 2008
Alert Digests Nos. 1 to 15 of 2008	February to December 2008
Annual Review 2008	March 2009
Report on the Legislation Reform (Repeals No. 4) Bill 2010	May 2009
Equal Opportunity Act 1995, Options Paper, Exceptions and Exemptions Inquiry	May 2009
Annual Review 2008, Regulations 2008	July 2009
Equal Opportunity Act 1995, Final Report, Exceptions and Exemptions Inquiry	December 2009
Alert Digests Nos. 1 to 14 of 2009	February to December 2009
Report on the Legislation Reform (Repeals No. 6) Bill 2010	February 2010
Annual Review 2009	March 2010
Annual Review 2009, Regulations 2009	August 2010
Alert Digests Nos. 1 to 14 of 2010	February to October 2010
Report on the Statute Law Revision Bill 2011	March 2011
Alert Digests Nos. 1 to 15 2011	March to December 2011
Annual Review 2010	May 2011
Annual Review 2010, Regulations 2010	June 2011
Review of the Charter of Human Rights and Responsibilities Act 2006	September 2011

Appendix 5

Regulations considered – 2011

Statutory Rules Series 2010

S. 8(1)(a) – Fee Increase

SR No. 66 – Country Fire Authority Amendment Regulations 2010

SR No. 126 – Metropolitan Fire Brigades (General) Amendment Regulations 2010

S. 8(1)(a) – Fee Increase & S. 9(1)(a) – No Appreciable Economic or Social Burden

SR No. 102 – Surveying (Registration Fees) Amendment Regulations 2010

S. 8(1)(b) – Court Rules

SR No. 67 – Children, Youth and Families Amendment Regulations 2010

SR No. 68 – Victorian Civil and Administrative Tribunal (Amendment No.1) Rules 2010

SR No. 73 – Victorian Civil and Administrative Tribunal (Amendment No.2) Rules 2010

SR No. 83 – Supreme Court (Chapter V Amendment No.7) Rules 2010

SR No. 84 – Victims of Crime Assistance Rules 2010

SR No. 100 – Supreme Court (Chapter 1 Amendment No.19) Rules 2010

SR No. 104 – Subordinate Legislation (Victims of Crime Assistance (Special Financial Assistance) Regulations 2000 – Extension of Operation) Regulations 2010

SR No. 105 – Children, Youth and Families Further Amendment Regulations 2010

SR No. 117 – Victorian Civil and Administrative Tribunal (Amendment No.3) Rules 2010

SR No. 140 – Magistrates' Court General Civil Procedure Rules 2010

SR No. 141 – Magistrates' Court (Miscellaneous Civil Proceedings) Rules 2010

SR No. 142 – Supreme Court (Chapter 1 Amendment No.20) Rules 2010

SR No. 143 – Supreme Court (Chapter 1 Amendment No.21) Rules 2010

SR No. 144 – Supreme Court (Judicial Registrars Amendments) Rules 2010

SR No. 145 – County Court (Chapter 1 Amendment No.2) Rules 2010

SR No. 146 – County Court (Chapter 1 Scale of Costs Amendment) Rules 2010

SR No. 147 – Supreme Court (Chapter 1 Amendment No.22) Rules 2010

SR No. 148 – Supreme Court (Judicial Registrars Further Amendment) Rules 2010

SR No. 151 – Children, Youth and Families (Children's Court Family Division)(Amendment No.2) Rules 2010

SR No. 152 – Magistrates' Court General Civil Procedure (Amendment No.1) Rules 2010

S. 8(1)(d)(iii) Extension of Time

SR No. 94 – Subordinate Legislation (Control of Weapons Regulations 2000 – Extension of Operation) Regulations 2010

SR No. 103 – Subordinate Legislation (Subdivision (Procedures) Regulations 2000 – Extension of Operation) Regulations 2010

SR No. 112 – Subordinate Legislation (Dangerous Goods (Storage and Handling) Regulations 2000 – Extension of Operation) Regulations 2010

S. 9(1)(a) – No Appreciable Economic or Social Burden

SR No. 61 – Accident Compensation Amendment Regulations 2010

SR No. 63 – Accident Towing Service Amendment (Licence Fees) Regulations 2010

SR No. 65 – Heritage (Infringement Notice) Amendment Regulations 2010
SR No. 69 – Guardianship and Administration (Fees) Amendment Regulations 2010
SR No. 70 – Electronic Transactions (Victoria) Regulations 2010
SR No. 82 – Building Amendment (Bushfire Safety) Regulations 2010
SR No. 86 – Electricity Safety (Equipment Efficiency) Amendment Regulations 2010
SR No. 91 – Retail Leases Amendment Regulations 2010
SR No. 92 – Infringements (General) Further Amendment Regulations 2010
SR No. 93 – Occupational Health and Safety Amendment (Miscellaneous) Regulations 2010
SR No. 96 – Children’s Services Amendment Regulations 2010
SR No. 98 – Environment Protection (Distribution of Landfill Levy) Regulations 2010
SR No. 108 – Mineral Resources Development Amendment (Miner’s Right and Other Amendments) Regulations 2010
SR No. 109 – Victorian Energy Efficiency Target Amendment (Assignment of Rights) Regulations 2010
SR No. 116 – Road Safety (Vehicles) Amendment (Club Permit) Regulations 2010
SR No. 118 – Fisheries Amendment Regulations 2010
SR No. 119 – Working with Children Amendment Regulations 2010
SR No. 122 – Magistrates’ Court General Amendment Regulations 2010
SR No. 125 – Liquor Control Reform Amendment Regulations 2010
SR No. 127 – Victorian Energy Efficiency Target Amendment Regulations 2010
SR No. 128 – Accident Compensation Further Amendment Regulations 2010
SR No. 135 – Road Safety (Drivers) Amendment (Drug-Driving) Regulations 2010
SR No. 136 – Road Safety (Vehicles) Amendment (Fees) Regulations 2010
SR No. 137 – Road Safety Road Rules Amendment (Exemption and Other Matters) Rules 2010
SR No. 138 – First Home Owner Grant Amendment Regulations 2010
SR No. 139 – Water (Resource Management) Amendment Regulations 2010
SR No. 149 – Liquor Control Reform Amendment (Fees) Regulations 2010
SR No. 150 – Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Further Amendment Regulations 2010

S. 9(1)(a) and (c) – No Appreciable Economic or Social Burden and Fundamentally Declaratory Nature

SR No. 87 – Electoral Amendment (Electoral Participation) Regulations 2010
SR No. 134 – Road Safety (General) Further Amendment Regulations 2010

S. 9(1)(c) – Of a Fundamentally Declaratory or Machinery Nature

SR No. 81 – Mental Health Amendment Regulations 2010
SR No. 85 – Court Security Amendment Regulations 2010
SR No. 88 – Health Services (Private Hospitals and Day Procedure Centres) Amendment Regulations 2010
SR No. 89 – Library Purposes Trusts Regulations 2010
SR No. 90 – Transport (Passenger Vehicles) and Transport (Taxi-Cabs) Amendment (Passenger Numbers) Regulations 2010
SR No. 95 – Transport (Ticketing) Amendment (Portable Devices) Regulations 2010
SR No. 97 – Prostitution Control (Fees) and Prostitution Control Amendment Regulations 2010
SR No. 99 – Local Government (General) Amendment Regulations 2010
SR No. 101 – Motor Car Traders Amendment (Infringements) Regulations 2010
SR No. 106 – Prostitution Control Amendment Regulations 2010
SR No. 107 – Conveyancers (Professional Conduct and Trust Account and General) Amendment (Infringements) Regulations 2010
SR No. 113 – Tobacco Amendment Regulations 2010
SR No. 114 – Rail Safety Amendment Regulations 2010
SR No. 120 – Crown Proceedings Amendment Regulations 2010
SR No. 121 – Bail Amendment Regulations 2010
SR No. 124 – Fair Trading Amendment and Revocation Regulations 2010
SR No. 131 – Drugs, Poisons and Controlled Substances Amendment Regulations 2010
SR No. 133 – Transport (Passenger Vehicles) and Transport (Infringements) Amendment Regulations 2010

Section 9(1)(d) Regulations Deal with Administration Procedures within or Between Departments

SR No. 132 – Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Amendment Regulations 2010

S. 9(3) – Premier’s Certificate

SR No. 111 – Electricity Safety (Bushfire Mitigation) Amendment Interim Regulations 2010

SR No. 123 – Legal Profession Practising Certificate Fees Interim Regulations 2010

SR No. 129 – Gambling Regulation (Pre-Commitment) Interim Regulations 2010

S. 10, 11 and 12 – Regulation Impact Statements

SR No. 110 – Bus Safety Regulations 2010

SR No. 115 – Port Management (Port of Melbourne Safety and Property) Regulations 2010

SR No. 130 – Drugs, Poisons and Controlled Substances (Precursor Supply) Regulations 2010

Code of Practice

Code of Practice for Worksite Safety – Traffic Management

Statutory Rules Series 2011

S. 8(1)(a) – Fee Increase

SR No. 3 – Gambling Regulation (Premium Customer) Regulations 2011

SR No. 10 – Second-Hand Dealers and Pawnbrokers (Exemption) Amendment Regulations 2011

SR No. 14 – Plumbing Amendment Regulations 2011

SR No. 16 – Infringements (General) Amendment (Lodgeable Infringement Offences) Regulations 2011

SR No. 22 – Building Amendment (Private Bushfire Shelter Construction) Regulations 2011

SR No. 23 – Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Amendment Regulations 2011

SR No. 25 – First Home Owner Grant Regulations 2011

SR No. 34 – Corporations (Ancillary Provisions) Regulations 2011

SR No 39 – Infringements (General) Amendment Regulations 2011

SR No. 45 – Environment Protection (Distribution of Landfill Levy) Amendment Regulations 2011

SR No. 50 – Control Of Weapons Amendment Regulations 2011

SR No. 56 – Victorian Energy Efficiency Target Amendment (Ductwork and Standby Power Controllers) Regulations 2011

SR No. 65 – Regional Growth Fund Regulations 2011

SR No. 67 – Infringements (General) Further Amendment (Lodgeable Infringements Offences) Regulations 2011

SR No. 70 – Liquor Control Reform Amendment Regulations 2011

SR No. 79 – Water (Long Service Leave) Regulations 2011

SR No. 92 – Building Amendment (Bushfire Construction) Regulations 2011

SR No. 102 – Tourist and Heritage Railways Regulations 2011

SR No. 111 – Subdivision (Registrar’s Requirements) Regulations 2011

SR No. 113 – Rail Safety Further Amendment Regulations 2011

S. 8(1)(a) and (c) – No Appreciable Economic or Social Burden and Fundamentally Declaratory Nature

SR No. 2 – Sentencing Amendment Regulations 2011

SR No. 12 – Fisheries (Fees, Royalties and Levies) Amendment Regulations 2011

SR No. 29 – Transport Accident (Administration of Charges) Regulations 2011

SR No. 62 – Road Safety (General) Amendment Regulations 2011

SR No. 83 – Residential Tenancies Amendment Regulations 2011

SR No. 86 – Conservation, Forests and Lands (Infringement Notice) Amendment Regulations 2011

SR No. 112 – Subdivision (Procedures) Regulations 2011

SR No. 115 – Transport Accident Amendment Regulations 2011

S. 8(1)(a) and (d) No Appreciable Economic or Social Burden and Fee Increase of 2.25 percent – Treasurer’s Rate

SR No. 46 – Zoological Parks and Gardens (Fees) Amendment Regulations 2011

S. 8(1)(b) – Court Rules

SR No. 1 – Criminal Procedure Amendment (Recorded Evidence-In-Chief) Regulations 2011

SR No. 6 – Supreme Court (Chapter VI Amendment No.6) Rules 2011

SR No. 7 – Supreme Court (Chapter 1 Amendment No 23) Rules 2011

SR No. 8 – Supreme Court (Chapter 1 Amendment No.24) Rules 2011

SR No. 15 – Supreme Court (Chapter 1 Amendment No.25) Rules 2011

SR No. 18 – Magistrates’ Court Criminal Procedure (Amendment No 1) Rules 2011

SR No. 26 – Supreme Court (Chapter 1 Amendment No.26) Rules 2011

SR No. 28 – Evidence (Examination of Witnesses Outside the State) Regulations 2011

SR No. 36 – Magistrates’ Court General Civil Procedure (Amendment No.2) Rules 2011

SR No. 55 – Magistrates’ Court General Regulations 2011

SR No. 58 – Magistrates’ Court Authentication Rules 2011

SR No. 59 – Magistrates’ Court Criminal Procedure (Amendment No.2) Rules 2011

SR No. 68 – Juries Regulations 2011

SR No. 53 – Supreme Court (Chapter I Amendment No. 27) Rules 2011

SR No. 77 – Supreme Court (Chapter I Amendment No. 28) Rules 2011

SR No. 78 – Supreme Court (Chapter I Amendment No. 29) Rules 2011

SR No. 81 – County Court (Chapter 1 Scale of Costs Amendment) Rules 2011

SR No. 82 – County Court (Chapter I Amendment No. 3) Rules 2011

SR No. 93 – Children’s Court (Family Violence Protection) (Amendment No 1) Rules 2011

SR No. 94 – Children’s Court (Personal Safety Intervention Orders) Rules 2011

SR No. 95 – Magistrates’ Court (Family Violence Protection Rules)(Amendment No 1) Rules 2011

SR No. 96 – Magistrates’ Court (Personal Safety Intervention Orders) Rules 2011

SR No. 97 – Victorian Civil and Administrative Tribunal (Anti Discrimination List Amendment) Rules 2011

SR No. 99 – Magistrates’ Court (Arbitration)(Professional Costs) Amendment Regulations 2011

SR No. 101 – Courts (Case Transfer) Rules 2011

SR No. 107 – County Court (Chapter 1 Amendment No.4) Rules 2011

SR No. 117 – Coroners Court (Amendment No 1) Rules 2011

SR No. 118 – Supreme Court (Chapter 1 Amendment No. 30) Rules 2011

SR No. 119 – Supreme Court (Judicial Registrars Mediation Amendment) Rules 2011

SR No. 120 – Supreme Court (Chapter VI Amendment No. 7) Rules 2011

SR No. 123 – Magistrates’ Court (Reference Amendment) Rules 2011

SR No. 124 – Magistrates’ Court (Miscellaneous Civil Proceedings) (Amendment No.1) Rules 2011

S. 8(1)(b) and (c) Court Rules and Of a Fundamentally Declaratory or Machinery Nature

SR No. 90 – Magistrates’ Court (Fees, Costs and Charges) Interim Amendment Regulations 2011

S. 8(1)(c) – Of a Fundamentally Declaratory or Machinery Nature

SR No. 4 – Crimes (Mental Impairment and Unfitness to be Tried) Amendment Regulations 2011

SR No. 5 – Severe Substance Dependence Treatment Regulations 2011

SR No. 9 – Travel Agents Amendment (Infringements) Regulations 2011

SR No. 19 – Local Government (General) Amendment Regulations 2011

SR No. 24 – Transport (Infringements) Amendment (Port Safety Infringements) Regulations 2011

SR No. 32 – Estate Agents (General, Accounts and Audit) Amendment (Infringements) Regulations 2011

SR No. 33 – Owners Corporations Amendment (Infringements) Regulations 2011

SR No. 38 – Agricultural Development (Polls) Regulations 2011

SR No. 47 – Tobacco (Victorian Health Promotion Foundation) Regulations 2011

- SR No. 57 – Public Health and Wellbeing Amendment Regulations 2011
 SR No. 66 – Road Safety (Traffic Management) and (Drivers) Amendment Regulations 2011
 SR No. 71 – Funerals (Infringements) Regulations 2011
 SR No. 72 – Public Health and Wellbeing Further Amendment Regulations 2011
 SR No. 74 – Transport (Compliance and Miscellaneous)(Taxi Cabs) Amendment Regulations 2011
 SR No. 75 – Transport (Compliance and Miscellaneous) (Passenger Vehicles) Amendment Regulations 2011
 SR No. 76 – Transport (Compliance and Miscellaneous)(Infringements) Amendment Regulations 2011
 SR No. 80 – Fair Trading Amendment Regulations 2011
 SR No. 84 – Estate Agents (Education) Amendment Regulations 2011
 SR No. 87 – Tobacco Amendment Regulations 2011
 SR No. 88 – Drugs, Poisons and Controlled Substances (Commonwealth Standard) Regulations 2011
 SR No. 89 – Personal Safety Intervention Orders Regulations 2011
 SR No. 100 – Estate Agents (General, Accounts and Audit) Amendment Regulations 2011
 SR No. 103 – Local Government (Finance and Reporting) Amendment Regulations 2011
 SR No. 104 – Rail Safety Amendment Regulations 2011
 SR No. 105 – Transport (Conduct) and (Infringements) Amendment Regulations 2011
 SR No. 106 – Transport (Taxi-Cabs) Amendment Regulations 2011
 SR No. 109 – Education and Training Reform Amendment Regulations 2011
 SR No. 114 – Transport (Compliance and Miscellaneous)(Ticketing) Amendment Regulations 2011
 SR No. 121 – Gambling Regulation Amendment Regulations 2011
 SR No. 122 – Drugs, Poisons and Controlled Substances (Drugs of Dependence – Synthetic Cannabinoids) Regulations 2011
 SR No. 125 – Marine Further Amendment Regulations 2011

S. 8(1)(c) and (d) – Of a Fundamentally Declaratory or Machinery Nature and Fee Increase of 2.25 percent – Treasurer’s Rate

- SR No. 51 – Road Safety (Drivers) and (Vehicles) Amendment (Fees) Regulations 2011

S. 8(1)(d) – Fee Increase of 2.25 percent – Treasurer’s Rate

- SR No. 17 – Alpine Resorts (Management) Amendment Regulations 2011
 SR No. 35 – Transfer of Land (Fees) Amendment Regulations 2011
 SR No. 48 – Building Amendment (Fees) Regulations 2011
 SR No. 49 – Plumbing Amendment (Fees) Regulations 2011
 SR No. 60 – Country Fire Authority Amendment Regulations 2011
 SR No. 61 – Metropolitan Fire Brigades (General) Amendment Regulations 2011
 SR No. 85 – Electricity Safety (Installations) Amendment (Fee) Regulations 2011

S. 8(1)(e)(iii) – Extension of time – Section 5A(3) Premier’s Certificate

- SR No. 11 – Subordinate Legislation (Accident Compensation Regulations 2001 – Extension of Operation) Regulations 2011
 SR No. 27 – Subordinate Legislation (City Of Melbourne (Elections) Regulations 2011) Extension Regulations 2011
 SR No. 98 – Subordinate Legislation (Wildlife (Game) Regulations 2001) Extension Regulations 2011
 SR No. 116 – Subordinate Legislation (Environment Protection (Fees) Regulations 2011) Extension Regulations 2011

S. 8(1)(f) – National Uniform Legislation Scheme

- SR No. 20 – Building Amendment Regulations 2011
 SR No. 21 – Plumbing Further Amendment Regulations 2011
 SR No. 91 – Gene Technology Regulations 2011

S. 9(3) – Premier’s Certificate

- SR No. 54 – Magistrates’ Court (Fees, Costs and Charges) Interim Regulations 2011
 SR No. 63 – Planning and Environment (Fees) Interim Regulations 2011
 SR No. 64 – Subdivision (Fees) Interim Regulations 2011

SR No. 69 – Juries (Fees) Interim Regulations 2011

SR No. 73 – Building Amendment (Community Fire Refuge Construction) Interim Regulations 2011

S. 10, 11 and 12 – Regulation Impact Statements

SR No. 13 – Water (Subdivisional Easements and Reserves) Regulations 2011

SR No. 30 – Petroleum Regulations 2011

SR No. 31 – Victorian Energy Efficiency Target Amendment (Scheme Target) Regulations 2011

SR No. 37 – Dangerous Goods (Explosives) Regulations 2011

SR No. 40 – Land (Tour Operator Licence Fee) Regulations 2011

SR No. 41 – Crown Land (Reserves)(Tour Operator Licence Fee) Regulations 2011

SR No. 42 – Forests (Tour Operator Licence Fee) Regulations 2011

SR No. 43 – National Parks (Tour Operator Licence Fee) Regulations 2011

SR No. 44 – Wildlife (Tour Operator Licence Fee) Regulations 2011

SR No. 52 – Subordinate Legislation (Legislative Instruments) Regulations 2011

SR No. 110 – Electricity Safety Amendment (Bushfire Mitigation) Regulations 2011

Compliance Code

Compliance Codes under the Accident Compensation Act 1985

Legislative Instruments

Exemption from section 65A(1) of the Road Safety Act 1986 for persons participating in a Victorian heat of the Australian National Circle Work Championships at the Tatura Racecourse

Determination that Specifies Areas that are Designated Bushfire Prone Areas

Keno Technical Standard

Approval of A Sports Betting Event (International Rules Series)

Appendix 6

Practice Notes

Practice Note No. 1

The Practice Note advises legal and legislation officers of the Committee's expectations in respect to information that should be provided to the Parliament concerning provisions in Bills that test or invoke the Committee's terms of reference.

In its scrutiny of Bills the Committee may initially make an adverse report to Parliament in its Alert Digest in respect to a number of legislative practices included in a Bill that appear to test or invoke the Committee's terms of reference in section 17 of the *Parliamentary Committees Act 2003* (the 'Act').

Where the Committee makes an initial adverse comment it will draw the provision to the attention of Parliament and will note that further advice will be sought from the responsible Minister. The Minister's response is published in the next Alert Digest upon receipt. To avoid needless Ministerial correspondence the Committee strongly prefers that explanatory material be provided at the time a Bill is introduced in Parliament in either the Second Reading Speech and or the explanatory memorandum.

Provisions frequently of concern to the Committee include –

1.1 Unexplained Retrospective Provisions

Where a Bill contains a provision that has retrospective operation (deeming, validating or backdated to the time of an announcement or 'press release') the Committee would expect that the Parliament will be provided with an explanation why it is desirable or necessary for the provision to be retrospective. The explanation should include the reason why a specific retrospective date is chosen, and provide sufficient information whether the retrospectivity may detrimentally affect any person. Where there is insufficient information provided to the Parliament, the grounds for an initial adverse report by the Committee will be that such a provision may constitute an undue trespass to rights and freedoms within the meaning of section 17(a)(i) of the Act.

1.2 Unexplained Wide Delegation of Powers and Functions Provisions

Where a Bill provides for a delegation of powers or functions in wide or unlimited terms, such as a delegation to 'any person', the Committee expects that Parliament will be informed as to the reasons why it is desirable or necessary to employ such a wide or unlimited delegation of powers. Where there is insufficient information provided to the Parliament the grounds for an initial adverse report by the Committee will be that such a provision may make rights, freedoms or obligations dependent upon insufficiently defined administrative powers within the meaning of section 17(a)(ii) of the Act.

1.3 Unexplained Commencement by Proclamation or Delayed Commencement in excess of 12 months

Where a Bill provides for the commencement of an Act by proclamation and no forced commencement provision is provided OR where the commencement is more than 12 months from Royal Assent, the

Committee expects that Parliament will be informed as to the reasons why it is desirable or necessary to employ such a commencement provision. Where there is insufficient information provided to the Parliament, the grounds for any initial adverse report by the Committee will be that such a provision may constitute an inappropriate delegation of legislative power within the meaning of section 17(a)(vi) of the Act.

1.4 Insufficient or Unhelpful Explanatory Material

The Committee will write to Ministers where, in the Committee's opinion, explanatory material (clause notes and/ or the Second Reading Speech) are unhelpful in describing the purpose or effect of a key provision. On one occasion the Committee noted a clause note concerning professional disciplinary matters stated that '*Clause 3 amends section 23*'. The Committee considers that there would be very few, if any, circumstances where such brevity could be appropriately characterised as 'explanatory'. The Committee considers that clause notes are critical, particularly where the provision deletes or substitutes certain words in a section where it would be problematic comprehending the amendment in its full context without some aide memoir as to its purpose and intent.

The Committee endorses the following remarks from a recent report of the Senate Standing Committee for the Scrutiny of Bills –

The committee relies on the explanatory memorandum to explain the purpose and effect of the associated bill and the operation of its individual provisions. In particular, the committee expects that an explanation will be given for any provision within a bill that appears to test or infringe the committee's terms of reference and provide reasons or justification for this.

**Senate Standing Committee for the Scrutiny of Bills – "The Quality of Explanatory Memoranda Accompanying Bills, 24 March 2004"*

In particular the Committee will comment on deficient or inaccurate explanatory material provided in respect to the following types of legislative provisions –

- Powers of arrest, detention and deprivation of liberty
- Search and seizure powers without judicial warrant
- Creation of strict or absolute liability offences
- Reversal of onus of proof in criminal (or civil penalty) offences
- Abridgment of the right to silence or the privilege against self-incrimination
- Freedom of communication, assembly, movement, association, religion or conscience
- Infringement of the right to vote
- Denial of or failure to advise of, judicial or merits review of administrative decisions
- Denial or abridgment of the principle of 'fair trial' or the principles of natural justice
- Acquisition of property without adequate compensation
- Privacy of information and health records
- Inappropriately delegates legislative power (ie. allow regulations to alter the provisions of an Act, or allow regulations to establish a tax (as distinct from a fee for service or penalty)).

The grounds for an adverse report where an explanatory memorandum is plainly deficient or inadequate is that such a provision may test or invoke one or more of the Committee's terms of reference.

Committee Room
17 October 2005

Practice Note No. 2

The Practice Note advises Victorian Government legislation officers of the Committee's expectations in respect to information that should be provided to the Parliament concerning provisions in Bills that engage the Committee's terms of reference.

In its scrutiny of Bills the Committee may initially make an adverse report to Parliament in its Alert Digest in respect to a number of legislative practices included in a Bill that appear to engage or infringe the Committee's terms of reference in section 17 of the *Parliamentary Committees Act 2003*.

Where the Committee makes an initial adverse comment it will draw the provision to the attention of Parliament and will note that further advice will be sought from the responsible Minister. The Minister's response is published in the next Alert Digest. To avoid needless Ministerial correspondence the Committee strongly prefers that explanatory material³⁹ be provided at the time a Bill is introduced in Parliament.

The Committee notes the following matters –

2.1 Statement of Compatibility – section 28 of the Charter⁴⁰

The Committee will write to Ministers where, in the Committee's opinion, a Statement of Compatibility is inadequate or unhelpful in describing the purpose or effect of provisions in a Bill that may engage or infringe a Charter right.

The Committee has determined that it will characterise a Statement of Compatibility as a form of explanatory memoranda equivalent in status to an explanatory memorandum accompanying a Bill.

The Committee considers that the provision to Parliament of reasonable explanatory material is critical to the Parliament's exercise of legislative power in an informed manner.

The Committee once again endorses the following remarks from a report of the Senate Standing Committee for the Scrutiny of Bills –

The committee relies on the explanatory memorandum to explain the purpose and effect of the associated bill and the operation of its individual provisions. In particular, the committee expects that an explanation will be given for any provision within a bill that appears to test or infringe the committee's terms of reference and provide reasons or justification for this.

*** Senate Standing Committee for the Scrutiny of Bills – "The Quality of Explanatory Memoranda Accompanying Bills, 24 March 2004"*

2.2 Statute law revision type amendments and their explanatory notes

The Committee frequently encounters provisions in Bills that include one or more house keeping amendments in the form of statute law revision amendments. These amendments typically correct minor spelling, grammatical or cross-reference errors. On other occasions they may repeal spent or redundant provisions in Acts.

The Committee observes that often the explanatory memorandum in respect to such amendments will simply provide 'Clause 27 – makes statute law revision amendments'. The Committee does not consider this is a useful explanation of the purpose of the statute law revision. By way of contrast, when the

³⁹ Explanatory material includes: (1) a Statement of Compatibility made under section 28 of the *Charter of Rights and Responsibilities Act 2006*; (2) an explanatory memorandum (clause notes) and (3) Ministerial correspondence.

⁴⁰ *Charter of Human Rights and Responsibilities Act 2006*.

Committee deals with Statute Law Revision Bills an explanation is always provided for each item sought to be amended. Some examples found in a recent statute law revision Bill will demonstrate this point –

Item 26 – *Firearms Act 1996* – amends section 3 to repeal the definition of airgun as it is not in the correct alphabetical order.⁴¹

Item 75 – *Water Act 1989* – amends section 33U(1)(e) to remove an unnecessary full stop; section 64GB(8) to remove an unnecessary hyphen; section 259(1)(c) to remove an unnecessary comma, and section 306(1)(b) to remove an unnecessary word.⁴²

In the future scrutiny of Bills the Committee will seek reasoned explanatory material which succinctly characterises the revision or correction sought to be made.

Example:

Clause 13 makes statute law revision amendments. – Unhelpful

Clause 13 removes an unnecessary word /punctuation / corrects a cross reference in section 128 OR repeals section 128 as the provision is now spent and any remaining transitional or savings effect is preserved by the operation of section 14 of the Interpretation of Legislation Act 1984. – Acceptable

**Committee Room,
6 August 2007**

Practice Note No. 3

The Committee adopted the following Practice Note on 26 July 2010.

The Committee's Practice Notes advise Victorian Government legislation officers of the Committee's expectations in respect to information that should be provided to the Parliament concerning provisions in Bills that engage the Committee's terms of reference. To avoid needless Ministerial correspondence the Committee strongly prefers that this information should be set out in explanatory material⁴³ provided at the time a Bill is introduced in Parliament.

This Practice Note addresses matters arising under the Charter that repeatedly arise in Bills and that, in some cases, have been the subject of recent rulings by Victorian courts:

Bills applying non-Victorian laws – Compatibility with human rights – Impact on the operation on the Charter – Adequacy of explanatory material

The Victorian Parliament often considers Bills that apply non-Victorian laws or refer powers to non-Victorian bodies. Such Bills raise a number of concerns for scrutiny, including that the non-Victorian laws or powers may not be subject to the protections in the Charter. While the passage of national co-operative laws is a matter for Parliament, the Committee considers that the explanatory material to Bills creating or enhancing such schemes should fully explain their human rights impact.

The Committee would prefer that the explanation have two components: First, the Statement of Compatibility may assess the human rights compatibility of all existing non-Victorian laws that are to be applied in Victoria. Second, the explanatory material may set out whether, and to what extent, the Charter's operative provisions (including its provisions for scrutiny, interpretation, declarations of

⁴¹ Statute Law Revision Bill 2006, Schedule.

⁴² Statute Law Revision Bill 2006, Schedule.

⁴³ Explanatory material includes – (1) a Statement of Compatibility made under section 28 of the *Charter of Rights and Responsibilities Act 2006*, (2) an explanatory memorandum (clause notes), and (3) Ministerial correspondence.

inconsistent interpretation and obligations of public authorities) will apply under the national cooperative scheme.

Privilege against self-incrimination – Removal of the privilege – Whether reasonable limit

The Victorian Supreme Court recently considered whether a Victorian statute that abolished the common law privilege against self-incrimination was compatible with the Charter.⁴⁴ This Note sets out the Committee's views on the requirements of statements of compatibility in light of that decision.

Where a provision of any Bill either provides that a human being must answer questions or provide information or documents that may tend to incriminate that person, or creates new powers or extends existing ones that are subject to such a provision, the Statement of Compatibility should state whether and how that provision satisfies the test for reasonable limits on rights in Charter s. 7(2).

The Committee would prefer that the analysis of reasonable limits set out the demonstrable justification for: the coercive power itself; any removal of the privilege against self-incrimination; any permission to use the answers or information derived from them in later proceedings; and any preconditions on the availability of protections against self-incrimination. The Statement's discussion of less restrictive alternatives reasonably available to achieve the purpose of the provision may address whether the privilege against self-incrimination could be abrogated in a narrower way.

Presumption of innocence – Reverse onus – Whether reasonable limit

The Victorian Court of Appeal recently declared that it cannot interpret the 'deemed possession' provision of the *Drugs, Poisons and Controlled Substances Act 1985* in a way that is consistent with the Charter's right to be presumed innocent until proved guilty according to law.⁴⁵ This Note sets out the Committee's views on the requirements of statements of compatibility in light of the decision.

The Statement of Compatibility for any Bill that creates (or extends the operation of or increases the applicable penalty in respect of) a provision that reduces the prosecution's burden to prove the accused's guilt or requires an accused to offer evidence of their innocence should state whether and how that provision satisfies the Charter's test for reasonable limits on rights. Examples of such provisions include ones that place the legal onus of proof on an accused with respect to any issue in a criminal proceeding; deem a fact to be proved in any circumstance; provide that proof of any fact is 'prima facie evidence' of a different fact; or place an evidential onus on an accused with respect to an essential element of an offence.

The Committee would prefer that the analysis of reasonable limits assess the risk that the provision may allow an innocent person to be convicted of the offence and set out the demonstrable justification for allowing such a risk. In the case of a provision that places a legal onus on an accused, the analysis may address whether an evidential onus would be a less restrictive alternative reasonably available to achieve the provision's purpose.

**Committee Room,
26 July 2010**

[The Committee's Practice Notes are available from – www.parliament.vic.gov.au/sarc]

⁴⁴ *Re an application under the Major Crime (Investigative Powers) Act 2004* [2009] VSC 381. See Charter ss. 24(1) & 25(2)(k).

⁴⁵ *R v Momcilovic* [2010] VSCA 50