



SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

Report on the Legislation Reform (Repeals No. 2) Bill 2007

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**Scrutiny of Acts and Regulations
Committee**

**Report on the Legislation Reform
(Repeals No. 2) Bill 2007**

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Scrutiny of Acts and Regulations Committee

Members	Mr Carlo Carli MLA (Chairperson)	
	Mr Ken Jasper MLA (Deputy Chairperson)	
	Mr Colin Brooks MLA	
	Mr Khalil Eideh MLC	
	Mr Telmo Languiller MLA	
	Mr Edward O'Donohue MLC	
	Mrs Inga Peulich MLC	
	Ms Jaala Pulford MLC	
	Mr Ryan Smith MLA	
Staff	Mr Andrew Homer	Senior Legal Adviser
	Ms Helen Mason	Legal Adviser, Regulations
	Dr Jeremy Gans	Human Rights Consultant
	Mr Simon Dinsbergs	Business Support Officer
	Ms Sonya Caruana	Office Manager
Address	Parliament House, Spring Street MELBOURNE VIC 3002	
Telephone	(03) 8682 2891	
Facsimile	(03) 8682 2858	
Email	andrew.homer@parliament.vic.gov.au	
Internet	www.parliament.vic.gov.au/sarc	

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Referral to Committee

Extracted from the Votes and Proceedings of the Legislative Assembly

No 53 — Thursday, 6 December 2007

- 20** **LEGISLATION REFORM (REPEALS NO. 2) BILL 2007** — Motion made, by leave, and question — That the proposals contained in the Legislation Reform (Repeals No. 2) Bill 2007 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report (*Mr Batchelor*) — put and agreed to.

Terms of Reference

Parliamentary Committees Act 2003, section 17

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

- (a) to consider any Bill introduced into the Council or the Assembly and to report to the Parliament as to whether the Bill directly or indirectly –
 - (i) trespasses unduly upon rights or freedoms;
 - (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers;
 - (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions;
 - (iv) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the *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 terms of reference which the Act is referred to the Committee.

Recommendations

1. *The Committee considers that the repeal of the seven (7) spent or redundant principal Acts listed in the Schedule is appropriate.*
2. *The Committee considers that the repeal of the forty-eight (48) amending Acts in the Schedule is appropriate.*

Legislation Reform (Repeals No. 2) Bill 2007

Introduced	4 December 2007
Second Reading Speech	6 December 2007
House	Legislative Assembly
Minister introducing Bill	Hon. John Brumby MP
Portfolio responsibility	Premier

Reference to the Committee

On the motion of the Hon. Peter Batchelor MP, the Legislative Assembly resolved to refer this Bill to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

Other than this specific reference the Committee notes that it has, in conjunction with the Office of Chief Parliamentary Counsel, a general reference from the Parliament to inquire into and consider Acts of the Parliament which are unclear, ambiguous, unnecessary or redundant.¹

The role of the Committee in considering a statute law revision Bill

The role of the Committee in considering a statute law revision Bill is to ensure that any amendments made to Acts are not of a substantive nature and are strictly confined to the correction of references, spelling, drafting and grammatical errors which are intended to clarify the original intent of the legislation. Where Acts are to be repealed the objective of the Committee is to ensure that the Acts sought to be repealed are spent or no longer necessary to remain on the Victorian Statute books and that there are appropriate transitional or savings provisions in place, should that be necessary. This Bill is confined to the repeal of redundant or spent legislation and makes no statute law revision amendments to Acts.

Purpose of this Bill

The explanatory memorandum of the Bill provides that the purpose of the Bill is to revise the statute law of Victoria by repealing a number of redundant or spent Acts.

The Committee notes the following extracts from the Premier's Second Reading Speech –

It is important for Parliament to review the legislation in the Victorian statute book on a regular basis and to repeal Acts that no longer serve any useful purpose. This has usually been done through the statute law reform bills that the Parliament has passed in previous years.

The government has decided to give this process an increased priority, in an effort to reduce the total number of acts by at least 20 per cent, based on the number of Acts in operation in 1999.

Accordingly, the government has instituted a review of all Acts across every portfolio.

The first results of this review were reflected in the Legislation Reform (Repeals No. 1) Bill 2007. That Bill, which identified 15 Acts for repeal, was introduced into Parliament on 21 August 2007

¹ *Parliamentary Committees Act 2003*, section 33(1)(a).

and was referred to the Scrutiny of Acts and Regulations Committee on 18 September 2007. Because these Bills are part of a wider reform program that will involve more things than the repeal of redundant legislation, it was not initially thought necessary to refer the Bills to SARC. After further consideration, however, the government has revised this view and I wish to advise the house that all repeal Bills in the legislation reform program will be referred to SARC for its review.

The Bill before the House continues this process by identifying a further group of Acts for repeal, falling within 13 separate portfolios. These Acts are listed in Schedule 1 to the Bill.

Clearing the statute book of redundant Acts, many of them with titles similar to active Acts, will help make the task of consulting our legislation less confusing. This fits in with the government's policy of reducing the regulatory burden on the Victorian community wherever possible.

The government will continue its review of Victorian legislation, and intends to present further legislation reform bills to Parliament in future, as may be appropriate.

Office of the Chief Parliamentary Counsel

The Committee received evidence from the Deputy Chief Parliamentary Counsel, Mrs Gemma Varley.

The Committee considered the evidence and concluded that the Acts to be repealed were appropriate to be contained in a statute law revision Bill.

The Chief Parliamentary Counsel Mr Eamonn Moran QC also provided the Committee with a certificate dated 11 December 2007 declaring that the Bill contains only repeals appropriate for a statute law repeals Bill and that any transitional, saving or validation provisions in the Acts to be repealed will be saved by the operation of section 14 of the Interpretation of Legislation Act 1984.

The certificate of the Chief Parliamentary Counsel is shown at **Appendix 1**.

Content and Committee comment

Statement of Compatibility

The Committee notes the Statement of Compatibility attached to the Second Reading Speech² declares that the Premier is of the opinion that the Bill does not raise any human rights issues, and is compatible with the Charter of Human Rights and Responsibilities.

The Bill in brief

[Clauses]

[1]. Provides that the purpose of the Bill is to repeal certain spent Acts in relation to local government, health, housing and community services and other matters.

[2]. Provides that the repeal of the Acts come into force on the day after Royal Assent.

[3]. Provides for the Acts listed in the Schedule to be repealed.

[4]. Provides for the automatic repeal of this Act on the first anniversary of the day on which it receives the Royal Assent.

² *Parliamentary Debates*, Legislative Assembly, 6 December 2007.

Schedule

Repeal of Acts

The Acts set out in the Schedule are categorised in 2 classes —

1. Spent Principal Acts

The Principal Acts to be repealed are —

1.1 Mildura Vineyards Protection Act 1931 (No. 3983)

This Act repealed the Mildura Vineyards Protection Acts of 1918 and 1922 and applied Part II of the Vegetation and Vine Diseases Act 1928 to vines and vineyards in Mildura. The 1928 Act has been repealed. Vine diseases are now controlled under the Plant Health and Plant Products Act 1995. The 1931 Act also dissolved the Mildura Vineyards Protection Board and provided for its property and assets to vest in the Board of Land and Works. The Board of Land and Works was required to convert the property and assets into money which together with any money standing to the credit of the Vineyards Protection Fund was placed into a Treasury Account called the "Mildura High School Scholarship Fund" to fund the provision of scholarships. This Account has since been closed.

1.2 River Murray Waters Act 1949 (No. 5369)

This Act was enacted to give effect to an agreement between the Commonwealth, Victoria, New South Wales and South Australia made on 26 November 1948. This agreement was replaced by a new agreement in 1982 which has since been replaced by a 1992 agreement forming the basis for the Murray-Darling Basin Act 1993. This Act also empowered the State Superannuation Board to enter into agreements with the River Murray Commission in respect of officers of the Commission. The 1949 Act no longer applies to the superannuation of any officer or former officer of the Commission.

1.3 Shepparton Abattoirs Act 1966 (No. 7401)

This Act authorised the Shire of Shepparton to borrow and repay by 30 June 1968 funds in excess of the amount authorised under the Local Government Act 1958 (later re-named the Local Government (Miscellaneous) Act 1958) to enable it to re-construct and enlarge the municipal abattoirs. The 1966 Act ceased to apply when new arrangements for repayment of this debt were made in accordance with the Shepparton Abattoirs Act 1967.

1.4 State Coal Mine Act 1966 (No. 7492)

This Act provided for the refunds of pension contributions to mine workers and the continuation in certain circumstances of coal miners' pension rights under the Coal Mines Act 1958 (now the Coal Mines (Pensions) Act 1958) on the closure of the power station and the scaling down of the State coal mine at Wonthaggi. The mine and power station have closed and there are no longer any persons who are entitled to payments or pensions under the 1966 Act.

1.5 Shepparton Abattoirs Act 1967 (No. 7612)

This Act provided for an agreement between the Shire of Shepparton and its contractors and lenders in relation to the repayment of debt incurred for the construction and enlargement of the municipal abattoirs. Under section 6(h) of the Act, the loans referred to in clauses 1(d) and 4 of the Schedule to the Act were guaranteed by the Government of Victoria. Clauses 1(d) and 4 provided for the loans to be repaid by half yearly instalments over a period of 40 years commencing on 1 April 1973. The municipal council has advised that the debt has been discharged. The guarantee is no longer required.

1.6 Como Project Act 1994 (No. 74/1994)*

This Act repealed the South Yarra Project Act 1984 and ended the Agreement ratified under that Act, and amended the South Yarra Project (Subdivision and Management) Act 1985. The amending and repeal provisions have come into operation and are spent. Section 4(3) preserves causes of action accrued and proceedings begun in relation to the Agreement before its termination. Section 5 validates planning scheme amendments, and provides that they are not to be taken as invalid merely by reason of apparent inconsistency with the South Yarra Project Act 1984 or the Agreement.

1.7 Dried Fruits (Repeal) Act 1998 (No. 27/1998)*

This Act provided for the repeal of the Dried Fruits Act 1958 and the abolition of the Victorian Dried Fruits Board and the transfer of the assets of the Board to a Trust (Dried Fruits Trust Incorporated) and transitional provisions in relation to that transfer. All transactions under that Act have been completed. The Trust has advised that the Act is no longer required.

* Any continuing effect of relevant validation, savings or transitional provisions in these Acts will be saved by section 14 of the *Interpretation of Legislation Act 1984*.

2. Spent Amending Acts with transitional or substantive provisions

The Bill repeals 48 amending Acts that contain transitional, saving or validation provisions or substantive provisions. The amendments or repeals made by the Acts are wholly in operation and have amended or repealed the provisions of Acts they were enacted to amend or repeal. The transitional and saving provisions are no longer required because of the passage of time and subsequent enactments since the Acts were enacted. The substantive provisions are no longer required because they have taken effect or are spent or redundant. Any residual or continuing effect of the transitional and saving provisions and the effect of the validation provisions will be saved by section 14 of the *Interpretation of Legislation Act 1984*.

Recommendations

- 1. The Committee considers that the repeal of the seven (7) spent or redundant principal Acts listed in the Schedule is appropriate.***
- 2. The Committee considers that the repeal of the 48 amending Acts in the Schedule is appropriate.***

Appendix 1 Certificate of Chief Parliamentary Counsel



PARLIAMENTARY COUNSEL VICTORIA

Your Reference:
Our Reference: EM:cj

Parliamentary Counsel's Chambers
Level 2 1 Macarthur Street Melbourne VIC 3002
DX: 210753
Tel: (03) 9651 2103 Fax: (03) 9651 2107
Website: www.ocpc.vic.gov.au

11 December 2007

Mr Carlo Carli MP
Chair
Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Dear Mr Carli

LEGISLATION REFORM (REPEALS NO. 2) BILL 2007

As you are aware, this Bill was introduced into the Legislative Assembly on 4 December 2007 and referred to the Scrutiny of Acts and Regulations Committee on 6 December 2007.

In accordance with the usual practice for this kind of Bill, I certify that this Bill contains only repeals appropriate for a redundant legislation repeals Bill. The relevant Departments have confirmed that the Acts proposed to be repealed by the Bill are now obsolete or spent in their operation and can be safely repealed. Any transitional, saving or validation provisions in the Acts to be repealed will be saved by section 14 of the **Interpretation of Legislation Act 1984**.

Please contact Mrs Varley, Second Deputy Chief Parliamentary Counsel, on 9651 2140 should your Committee have any queries about any provision of the Bill.

Yours sincerely

EAMONN MORAN PSM QC
Chief Parliamentary Counsel



Appendix 2 Unproclaimed Acts

The Committee provides the following information³ pursuant to section 17(a)(iv) of the *Parliamentary Committees Act 2003* concerning unproclaimed Acts.

List of unproclaimed Acts

1. *Footscray Land (Amendment) Act 1990*
2. *Metung Land Act 1991*

³ Source: Office of the Chief Parliamentary Counsel of Victoria.