

PARLIAMENT



OF VICTORIA

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

REPORT ON THE STATUTE LAW REPEALS BILL 2014

FEBRUARY 2015





SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

Report on the Statute Law Repeals Bill 2014

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Parliament of Victoria, Australia
**Scrutiny of Acts and Regulations
Committee**
**Report on the Statute Law Repeals
Bill 2014**
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Referral to Committee

Extracted from the Votes and Proceedings of the Legislative Assembly

No 3 — Tuesday, 10 February 2015

- 10 **STATUTE LAW REPEALS BILL 2014** — Motion made, by leave, and question — That the proposals contained in the Statute Law Repeals Bill 2014 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report (Ms Allan) — 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 *Privacy and Data Protection Act 2014*;
 - (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

Recommendations

1. ***Acts to be repealed*** – The Committee considers that the repeal of the four (4) spent Appropriation Acts listed in the Schedule is appropriate.
2. ***Self-repeal of Appropriation Acts*** – The Committee recommends that a self-repeal provision be included in future Appropriation Acts. The self-repeal should come into operation on the fourth anniversary after the commencement of the relevant Appropriation Act.

Statute Law Repeals Bill 2014

Introduced	23 December 2014
Second Reading Speech	10 February 2015
House	Legislative Assembly
Minister introducing Bill	Hon. Jacinta Allan MLA
Portfolio responsibility	Premier

Reference to the Committee

On 10 February 2015 on the motion of the Hon. Jacinta Allan MLA, the Legislative Assembly resolved to refer the Bill to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

The role of the Committee in considering a statute law revision or repeals Bills

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 necessary transitional or savings provisions are preserved appropriately.

The Committee notes that this Bill is confined to the repeal of redundant or spent principal and amending Acts. The Bill makes no statute law revision amendments to Acts.

Rights, liabilities and obligations

In respect to the repeal of Acts that may have included provisions creating rights or imposing obligations the Committee notes the operation of section 14(2)(e) of the *Interpretation of Legislation Act 1984*. The section relevantly provides –

14 (2) Where an Act or a provision of an Act –

(a) is repealed or amended; or

(b) expires, lapses or otherwise ceases to have effect –

the repeal, expiry, lapsing or ceasing to have effect of that Act or provision shall not unless the contrary intention expressly appears–

(c).....

(d)....

(e) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision.

Purpose of the Bill

The Committee notes the following extracts from the Second Reading Speech:

The Bill before the house, the Statute Law Repeals Bill 2014, is a regular mechanism for ensuring that Victoria's Statute Book remains up-to-date.

The Bill repeals principal Acts which have no ongoing operation.

By repealing redundant Acts, the Bill will help to ensure that the Victorian Statute Book is maintained in an orderly manner so that it remains relevant, up-to-date and accessible to the Victorian community.

Office of the Chief Parliamentary Counsel

The Committee received evidence from the First Deputy Chief Parliamentary Counsel, Mr John Butera on 12 February 2015.

The First Deputy Chief Parliamentary Counsel also provided the Committee with a certificate 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 is shown at **Appendix 1**.

The Committee considered the evidence and noted the certificate. The Committee concluded that the four Appropriation Acts identified for repeal were appropriate to be contained in a statute law repeals Bill.

Content and Committee recommendations

Statement of Compatibility

The Committee notes the Statement of Compatibility attached to the Second Reading Speech¹ declares that the Minister is of the opinion that the Bill is compatible with the human rights as set out in 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.
- [2]. Provides that the repeal of the Acts come into force on the day after Royal Assent.
- [3]. Provides for the Acts listed in Schedule 1 to be repealed.

¹ *Parliamentary Debates*, Legislative Assembly, 11 February 2015.

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

Schedule 1 – Repeal of Acts

Spent Appropriation Acts – wholly in operation

This Bill repeals four spent Appropriation Acts.

The explanatory memorandum provides that these Acts are no longer required because their operative provisions have taken effect and are spent.

Section 14 of the Interpretation of Legislation Act 1984 provides that the repeal of these Acts will not affect the previous operation of, or anything done under, these Acts.

The four Acts in the Schedule are the:

- **Appropriation (2010/2011) Act 2010 (No. 37/2010)**
- **Appropriation (Parliament 2010/2011) Act 2010 (No. 38/2010)**
- **Appropriation (2011/2012) Act 2011 (No. 23/2011)**
- **Appropriation (Parliament 2011/2012) Act 2011 (No. 24/2011).**

Recommendations

1. ***Acts to be repealed*** – The Committee considers that the repeal of the four (4) spent Appropriation Acts listed in the Schedule is appropriate.
2. ***Self-repeal of Appropriation Acts*** – The Committee recommends that a self-repeal provision be included in future Appropriation Acts. The self-repeal should come into operation on the fourth anniversary after the commencement of the relevant Appropriation Act.

Appendix 1

Certificate – Office of the Chief Parliamentary Counsel