



SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

Report on the Statute Law Revision Bill 2011

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Scrutiny of Acts and Regulations Committee

Report on the Statute Law Revision Bill 2011

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Scrutiny of Acts and Regulations Committee

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Referral to Committee

Extracted from the Minutes of the Proceedings of the Legislative Council

No 4 — Thursday, 10 February 2011

- 16 STATUTE LAW REVISION BILL 2011** — Mr D.M. Davis, moved, by leave, That the Statute Law Revision Bill 2011 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

Question — 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 and Ministerial Correspondence

Recommendations

1. *The Committee is satisfied that the amendments made to the Acts listed in Schedule 1 of the Bill are not of a substantive nature and only correct minor errors or omissions appropriate to be included in a Statute Law Revision Bill.*
2. *The Committee is satisfied that the proposed repeal of the 17 principal Acts and the remaining 10 amending Acts listed in Schedule 2 are spent or redundant and are appropriate to be included in a Statute Law Revision Bill. The Committee is satisfied that any residual effect of transitional or substantive provisions will be preserved by section 14 of the Interpretation of Legislation Act 1984.*

Ministerial Correspondence

The Committee will write to the Minister for Planning seeking further advice concerning the repeal of the Footscray Land (Amendment) Act 1990.

Statute Law Revision Bill 2011

Introduced	9 February 2011
Second Reading Speech	10 February 2011
House	Legislative Council
Minister introducing Bill	Mr D.M. Davis MLC
Portfolio responsibility	Premier

Reference to the Committee

On 10 February 2011 on the motion of the Mr D.M. Davis MLC, the Legislative Council 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

Correcting errors or omissions in Acts

The role of the Committee in considering the Statute Law Revision Bill amending a large number of unrelated Acts is to ensure that the amendments made to those Acts are not of a substantive policy nature, rather that they are strictly confined to the correction of minor errors or omissions such as cross-references, spelling, drafting and grammar. Other amendments may simply update nomenclature such as the names of government departments or agencies. Such house keeping amendments are intended to clarify the original intent of the legislation rather than to make substantive changes. Where such minor amendments are intended to apply retrospectively the Committee will seek to ensure that there is a rationale and legitimate reason for applying the amendment retrospectively.

The Committee is also guided in its approach in considering such Bills by established principles of statutory interpretation. The Committee notes the following extract from a leading Australian authority on statutory interpretation –

This case is illustrative of the approach that has usually been followed by the courts assuming that statute law revision Acts are not intended to change the substance of the law. They are used to tidy up the statute book, often before consolidation or reprinting occurs. The result of this approach has been to make the courts slow to infer that a change of substance has been made to an Act where an interpretation not changing the previous operation of the Act is tenable.*

D. C. Pearce and R. S. Geddes, 'Statutory Interpretation in Australia'
(Butterworths, 6th Edition (2006), at page 262).

**Laird v Portland Municipality [1958] Tas SR 90*

However the Committee is mindful that notwithstanding the legal assumption that such Bills are not intended to change the substance of the law, provision in any Bill may make substantive change.

Repeal of Acts

In respect to Acts that are proposed to be repealed, whether principal or amending Acts, the objective of the Committee is to ensure that the Acts are indeed spent or redundant and are therefore no longer necessary to remain on the Victorian statute books.

Rights and liabilities

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 that –

Where an Act or a provision of an Act is repealed or amended or 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 affect any right, privilege, obligation or liability acquired, accrued or incurred under that Act or provision.

Purpose of this Bill

The Bill before the Committee is hybrid in content and purpose. The Bill proposes to make statute law revision amendments to 112 Acts. A number of these revisions repeal spent transitional provisions or consequential provisions (Parts, Divisions, sections or subsections). These provisions have come into operation or are spent and may now be removed from those Acts. The remaining amendments are designed to correct cross-reference errors or other errors or omissions such as punctuation, spelling or grammar.

The Bill also repeals 17 principal Acts and 10 amending Acts.

Extracts from the Second Reading Speech

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

The Bill corrects a number of ambiguities, minor omissions and errors found in statutes to ensure the meaning of Acts is clear and reflects the intention of Parliament.

The Bill corrects spelling and grammatical errors and makes any amendments that should have been made as consequential amendments when legislation was first passed.

The Bill repeals redundant transitional provisions of Acts which are no longer required because of the passage of time and subsequent legislative enactments. The Bill also repeals substantive provisions of Acts which have fulfilled their purpose of amending or repealing other Acts. These provisions are no longer required because they have amended or repealed the relevant provisions in other Acts.

The Bill also repeals wholly redundant Acts identified by Chief Parliamentary Counsel. The Acts to be repealed are listed in a schedule to the Bill.

... Any residual effect of the transitional and substantive provisions will be saved by section 14 of the Interpretation of Legislation Act 1984.

... The Bill will make technical improvements to the State's statutes, rather than substantive amendments.

Office of the Chief Parliamentary Counsel

The Committee received advice from the Acting Chief Parliamentary Counsel, Mr John Butera and Parliamentary Counsel, Ms Elizabeth Moore.

The Acting Chief Parliamentary Counsel also provided the Committee with a certificate dated 11 February 2011 declaring that the Bill contains only repeals and amendments appropriate for a statute law revision 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**.

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

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 does not raise any human rights issues, and is compatible with the *Charter of Human Rights and Responsibilities*.

Content and Committee comment

The Bill in brief

[Clauses]

[1]. Provides that the purpose of the Bill is to revise the statute law of Victoria.

[2]. Provides that the Act, other than specified provisions, comes into force on the day after Royal Assent. The specified provisions relate to retrospective operation of amendments that are considered separately in this report.

[3]. Provides for the Acts listed in the items in Schedule 1 are amended as set out in the item.

[4]. Provides that the Acts listed in Schedule 2 are repealed.

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

Schedule 1 – Statute Law Revision

The Schedule contains 112 items making minor amendments to the Acts specified by those items.

In auditing the proposed amendments the Committee has categorised the proposed amendments under broad groupings as follows –

¹ *Parliamentary Debates*, Legislative Council, 10 February 2011.

1. Retrospective provisions

In each case below retrospective operation seeks to remove any doubt that the amendments made took effect as intended from the commencement of the section.

Item 10.3 – *Children's Services Act 1996*

The amendment made by item 10.3 is retrospective to 25 May 2009. The amendment corrects an erroneous instruction made in section 22(4) of the *Children's Legislation Amendment Act 2008* to 'insert section 36(3)' rather than as was intended to 'substitute section 36(3)'.

Item 17.2 – *Consumer Affairs Legislation Amendment (Reform) Act 2010 (the amending Act)*

The amendment made by item 17.2 is retrospective to 28 September 2010. The amendment corrects a section reference contained in the text of new section 51 of the *Sale of Land Act 1962* (a transitional provision) which was inserted by section 60(2) by this amending Act. Section 60(2) contained a cross-reference to section 65 of the amending Act whereas the correct cross-reference should have been to section 57 which made substantive amendments to section 9AA of the *Sale of Land Act 1962*. The erroneous reference to section 65 referred to another amendment made by the amending Act to the *Retirement Villages Act 1986*.

Item 25 – *Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009*

The amendment made by item 25.1 is retrospective to 31 December 2009. The amendment is to item 40.39 of the Schedule to correct a reference to section 46ZFB(2A) of the *Crimes Act 1958* whereas the correct reference should have been to section 464ZFB(2A).

The amendment made by item 25.2 is retrospective to 31 December 2009. The amendment is to item 106.23 of the Schedule to correct a reference to section 84ZB(b)(i) of the *Road Safety Act 1986* whereas the correct reference should have been to 84ZB(1)(b)(i).

Item 43.1 – *Gambling Regulation Further Amendment Act 2009*

The amendment made by item 43.1 is retrospective to 20 October 2009 amending section 19(2) to make it clear that the amendment is inserting a new paragraph (ca) after section 3.4.4(1)(c) of the *Gambling Regulation Act 2003*. The original amendment incorrectly contained the instruction 'in section' rather than 'after section'.

Item 60.1 and 60.2 – *Mineral Resources (Sustainable Development) Act 1990*

The amendments made by items 60.1 and 60.2 are retrospective to 1 January 2010. The amendment to sub-sections 80(4) and (5) substitute the references to 'licensee' with references to 'authority holder'. Most of the references to 'licensees' in the 1990 Act were substituted by section 24(4) and (5) of the *Resources Industry Legislation Amendment Act 2009* but these two were missed.

Item 75.3 and 75.4 – *Public Health and Wellbeing Act 2008*

The amendment made by item 75.3 is retrospective to 31 December 2009. The amendment to section 256 corrects a reference in words being substituted in section 40(2) of the *Food Act 1984*. The original amendment referred to 'Part XII or XIX' rather than to "Part XII or Part XIX".

The amendment made by item 75.4 is retrospective to 2 September 2008. The amendment to section 269 corrects a reference to the *Ambulance Services Act 1986*. The incorrect reference was to 'Ambulances' rather than 'Ambulance'.

Item 86.2 and 86.3 – Severe Substance Dependence Treatment Act 2010

The amendment made by item 86.2 is retrospective to 10 August 2010. The amendment corrects a reference in section 49(1) to section 3(1) of the *Veterinary Practice Act 1997*. The correct reference should have been simply to section 3 as the section does not contain subsections.

The amendment made by item 86.3 is retrospective to 10 August 2010. The amendment omits a superfluous word in section 49(2). The incorrect reference was to an ‘alcoholic or a drug-dependent person’ whereas the correct reference should have been to ‘an alcoholic or drug-dependent person’.

Item 99 – Transport Legislation Amendment Act 2007

The amendment made by item 99 is retrospective to 11 December 2007. The amendment to section 67 corrects the reference to the *Rail Safety Act 2006* (the ‘Act’) which failed to include the year of the Act.

Item 100 – Transport Legislation Amendment (Compliance, Enforcement and Regulation) Act 2010

The amendment made by item 100 is retrospective to 21 May 2010. The amendment corrects a spelling error in section 77(b) in the amendment to the definition of *prescribed device* in section 208 of the *Transport Act 1983* (which was later renamed the *Transport (Compliance and Miscellaneous) Act 1983*). The erroneous spelling was ‘presribed’ rather than ‘prescribed’.

2. Spelling, typographical, punctuation, missing words, extraneous words or grammatical errors

Items – 2, 4, 5, 7, 10, 11, 13, 14, 18, 19, 20, 24, 26, 28, 30, 31, 32, 36, 37, 38, 40, 41, 42, 46, 50, 52, 53, 54, 55, 56, 57, 58, 63, 67, 68, 70, 72, 74, 75, 76, 78, 79, 85, 86, 90, 92, 93, 96, 97, 98, 99, 100, 105, 106, 107, 108 and 111.

3. Cross-reference errors

Items – 2, 3, 9, 17, 25, 43, 61, 64, 81 and 101.

4. Updating nomenclature (Act names, definitions, agency or Departmental names)

Items – 21, 23, 29, 34, 51, 60, 64, 66, 70, 73, 80 and 104.

5. Repeal of spent provisions (Parts, Divisions, sections etc.) that have commenced operation and have achieved their purpose

Items – 1, 6, 8, 9, 12, 15, 16, 22, 27, 28, 39, 42, 44, 45, 47, 59, 62, 65, 66, 67, 69, 71, 77, 78, 82, 83, 87, 88, 89, 94, 95, 102, 103, 110 and 112.

6. Incorrect legislative instruction (e.g. ‘insert’ instead of ‘substitute’ or failed amendment)

Items – 10, 17, 33, 35, 37, 38, 39, 43, 48, 49, 84, 91, 98 and 109.

Recommendation 1

The Committee is satisfied that the amendments made to the Acts listed in Schedule 1 of the Bill are not of a substantive nature and only correct minor errors or omissions appropriate to be included in a Statute Law Revision Bill.

Schedule 2 – Repeal of Acts

The Bill proposes to repeal 27 Acts listed in the Schedule. These Acts fall into 3 broad categories. Spent principal Acts, spent amending Acts with transitional or substantive provisions and spent amending Acts that are wholly in operation.

1. Spent Principal Acts

The Bill repeals 17 Principal Acts (items 1.1 to 1.14) which have been identified by government departments and agencies as no longer being required because either the operative provisions in those Acts have already taken effect and are therefore spent or the Act is redundant and has no future further function to perform.

In respect to items 1.2, 1.6 to 1.12 the Committee notes that section 14 of the *Interpretation of Legislation Act 1984* provides that the repeal of these Acts will not affect any residual rights, obligations, liabilities or the operation of, or anything done under, those Acts.

In respect to items 1.9 to 1.11 the Committee observes that these Acts contain a section 85 *Constitution Act 1975* (limitation of the jurisdiction of the Supreme Court) declaratory provision.

1.1 *Geelong Harbor Trust Act 1905 (No. 2012)*

This Act was enacted to provide for the construction of works at the Geelong Harbor and established the Geelong Harbor Trust Commissioners. Most of this Act was repealed in 1915. There are 2 provisions remaining. Section 26 provided that certain land used for show yards vested in the Crown and that the trustees of other certain land could sell or remove the improvements on the land vested in the Crown. The vesting of the land has taken effect and the power to sell or remove the improvements is no longer required. Section 29 provided that the costs of dredging of the Geelong Harbor, carried out before the commencement of the 1905 Act, were to be paid for from the Geelong Harbor Trust Fund. These costs were subsequently allocated to the State and written off. Sections 26 and 29 are no longer required.

1.2 *The Colonial Mutual Life Assurance Society Act 1912 (No. 2372)*

This Act was enacted to remove any doubts about the provisions of the Articles of Association (the **articles**) of the Colonial Mutual Life Assurance Society Limited (the **Society**) being in accordance with the Memorandum of Association of the Society (the **memorandum**) and to enable Inspectors to be appointed to investigate the affairs of the Society. The provisions inserted in the 1912 Act for the removal of doubt relating to the memorandum and articles have taken effect and are spent. The 1912 Act gave the Governor in Council powers relating to the appointment of Inspectors to investigate the Society. The Governor in Council and the Inspectors also had certain duties under the 1912 Act. The powers and duties are no longer required.

The Society was demutualised in 1996 and became a registered company and is now subject to the Corporations Act 2001 of the Commonwealth and to the jurisdiction of the Australian Investments and Securities Commission. In 2000 the Commonwealth Bank became the owner of the Society. The Explanatory Memorandum states that the Commonwealth Bank has no objection to the repeal of the 1912 Act.

1.3 *Melbourne Harbor Trust (Exchange of Lands) Act 1922 (No. 3258)*

This Act was enacted to provide for the exchange of certain pieces of land vested in the Melbourne Harbor Trust Commissioners (the Commissioners) for other pieces of land owned by 3 companies pursuant to agreements entered into by the Commissioners and the companies for the adjustment of the lines of

demarcation between their properties. Section 6 provided that Comben Street Footscray ceased to be a public highway. The vesting of the lands in the Commissioners and the companies under the 1922 Act was subject to various easements and rights granted under that Act. The lands vested in the Commissioners were deemed under section 8 to be purchased by the Commissioners under their statutory powers. The vesting of the lands under sections 2, 3, 4 and 5 and the granting of related easements and rights, the closure of Comben Street and section 8 have all taken effect and are no longer required. Sections 2(b) and 7 of the 1922 Act required the Registrar of Titles to make any necessary recordings in the Register to reflect the vesting of lands and easements and rights created under the 1922 Act. These recordings have been made and the provisions are no longer required.

1.4 *Junior Legacy, Melbourne (Dureau Memorial) Act 1953 (No. 5717)*

This Act relates to certain property held in Trust for the purposes of Junior Legacy, Melbourne. The 1953 Act gave power to the trustees to sell or exchange premises that had been purchased for the Junior Legacy Club, Melbourne (the predecessor of Junior Legacy, Melbourne) from money donated to perpetuate the memory of David H. Dureau and to use the proceeds for the general purposes of Junior Legacy, Melbourne. Legacy have been consulted about the repeal of the 1953 Act and advised that the premises was sold and a new premises was subsequently purchased with the proceeds and that all funds were exhausted in the purchase and refurbishment of the new premises.

1.5 *Cul-de-sac Applications Act 1965 (No. 7334)*

This Act was enacted to make provision for applications made by owners of land to have cul-de-sac land vested in them under the now repealed Division 6 of Part IV of the Transfer of Land Act 1958 if the applications were made before the repeal of that Division. Section 3, a transitional provision, provided that Division 6 continued to apply to applications made under that Division before its repeal. Section 4, also a transitional provision, preserved the rights of persons to claim moneys in the Assurance Fund under Division 6 in relation to applications made under that Division before its repeal. The period for making those claims has expired. These provisions are now redundant.

1.6 *Mildura Irrigation and Water Trusts Act 1969 (No. 7826)*

Part I of this Act made amendments to the Mildura Irrigation and Water Trusts Act 1958 (later renamed the Irrigation and Sunraysia Board Act 1958) which have taken effect and are spent. Part II of the 1969 Act required the re-subdivision of certain land forming part of the First Mildura Irrigation District (the Mid Area) to be carried out by the First Mildura Irrigation Trust (the Trust). The re-subdivision came into effect by way of an Order of the Governor in Council under section 24(1) on 5 May 1970. The Principal Act was repealed by the Water Act 1989 and the Trust has now been taken over by the Lower Murray Urban and Rural Water Corporation, a water corporation within the meaning of that Act. Section 25(5) saved certain matters relating to Crown grants in the Mid Area. Section 28 assured the validity of things done under the 1969 Act. Section 30 provided that costs incurred by the Trust in relation to the re-subdivision were deemed to have been incurred in providing capital works. This provision is no longer required. The powers and duties under the 1969 Act are no longer required.

1.7 *National Mutual Permanent Building Society Act 1985 (No. 10228)*

The purpose of this Act was to facilitate the National Mutual Permanent Building Society becoming a banking corporation by enabling it to become a public company deemed to be incorporated in Victoria (the company). This provision has taken effect. The company, which became the National Mutual Royal Savings Bank Ltd subsequently became part of another bank (the National Mutual Royal Savings Bank (NSW) Ltd) as a result of a merger in 1987 (see National Mutual Royal Savings Bank Limited (Merger) Act 1987 to be repealed by this Bill).

1.8 *National Mutual Royal Savings Bank Limited (Merger) Act 1987 (No. 64/1987)*

The purpose of this Act was to transfer the banking business of the National Mutual Royal Savings Bank Ltd (the Victorian bank) to the National Mutual Royal Savings Bank (N.S.W.) Ltd (the continuing bank). The provisions effecting the transfer of the business of the Victorian bank to the continuing bank have taken effect and are spent. The continuing bank became the successor in law of the Victorian bank. The continuing bank changed its name to the National Mutual Royal Savings Bank Ltd and its place of incorporation to Victoria after the merger. The Australia and New Zealand Banking Group Ltd (ANZ) became the owner of the continuing bank in 1990 and in 1991 the continuing bank merged with the ANZ and the Australia and New Zealand Savings Bank Ltd. The ANZ has been consulted about the repeal of the 1987 Act and has raised no objections to the repeal.

1.9 *Tattersall Consultations (Further Amendment) Act 1993 (No. 73/1993)*

This Act was enacted to exempt profits deriving from Tattersall operations outside of Victoria from the profit-sharing provisions of section 6(1A) of the Tattersall Consultations Act 1958 (TCA) and to confirm the meaning of references to 3 amounts, numbers or symbols on tickets in certain Instant Money Lotteries. Section 3, which amends the TCA has taken effect and is spent. The TCA has since been repealed. Section 4(1) deems certain expressions on an Instant Money Lottery ticket to have always had a particular meaning. This section applies to an Instant Money Lottery claim made or to be made at any time in the past or future. Section 4(2) is a transitional application provision that limits the jurisdiction of the Supreme Court. The effect of this provision will be preserved under section 14 of the Interpretation of Legislation Act 1984. On the repeal of section 4, section 5, which states that section 85 of the Constitution Act 1975 is altered because of section 4, is no longer required.

1.10 *Land (Revocation of Reservations) Act 1994 (No. 55/1994)*

This Act revoked or partially revoked Orders in Council and revoked a Crown grant in respect of reserved land at the Southern Cross Hotel site, the Institute of Plant Sciences site and at the Lakeside Psychiatric site at Ballarat. The previously reserved land was deemed to be unalienated Crown land, the appointment of any committees of management of that land revoked and any regulations under the Crown Land (Reserves) Act 1978 applying to that land revoked. The 1994 Act also made amendments to the Melbourne Market and Park Lands Act 1933, the Melbourne Lands and Market Sites Act 1991 and the Melbourne University (VCAH) Act 1992 and repealed the Melbourne Market and Park Lands Act 1955. These revocations, deeming, amendment and repealing provisions have taken effect and are spent. Under section 4(1) the Minister could recommend that the Governor in Council make an Order under section 4(2) approving a plan of survey. An Order was made. Under section 11 the Minister could sell the land that had reverted to Crown land under the 1994 Act. The land has been sold. The powers under sections 4 and 11 are no longer required. Section 10(2), a saving provision that preserved the lease and any subleases over the Southern Cross Hotel site land, is no longer required. Under section 13, the Crown does not have to pay compensation in respect of matters arising under the 1994 Act. The effect of section 13 will be preserved by section 14 of the Interpretation of Legislation Act 1984. Section 14 of the 1994 Act, which alters or varies section 85 of the Constitution Act 1975 due to section 13, is no longer required.

1.11 *Year 2000 Information Disclosure Act 1999 (No. 14/1999)*

This Act was enacted to encourage the voluntary disclosure and exchange of information by entities in readiness for potential computer problems relating to the upcoming year 2000. This Act complemented the Year 2000 Information Disclosure Act 1999 of the Commonwealth which has since been repealed. Part 3 (specifically section 8) provided that no civil action could be taken against a person relating to the making of a "Year 2000 disclosure statement". Section 8 and the other related sections in Part 3 are now redundant as no actions are currently "on-foot" and future actions are barred by limitation of actions laws.

Section 12 is a substantive provision that has taken effect. Section 13 provided for certain rights in relation to the disclosure of information. These rights will be preserved under section 14 of the Interpretation of Legislation Act 1984. Section 14 of the 1999 Act, which alters or varies section 85 of the Constitution Act 1975 because of Part 3 of the 1999 Act, is no longer required.

1.12 *Melbourne (Flinders Street Land) Act 2003 (No. 31/2003)*

This Act divested land that had been vested in the Melbourne City Council under the Melbourne (Flinders-street) Land Act 1958 and deemed that land to be unalienated Crown land and revoked any regulations made under the Crown Land (Reserves) Act 1978 in so far as they applied to the land. The 2003 Act also amended the Melbourne (Flinders-street) Land Act 1958. These provisions have taken effect and are spent. Section 4 of the 2003 Act preserved certain rights over the divested land under various Acts.

1.13 *Land (Revocation of Reservations) Act 2007 (No. 45/2007)*

This Act partially revoked Orders in Council and related Crown grants in respect of reserved land at Lake Condah, Roman Catholic Orphan Asylum land at South Melbourne and land reserved for asylum purposes at Daylesford and Beechworth. The previously reserved land was deemed to be unalienated Crown land, the appointment of any committees of management of that land was revoked and any regulations under the Crown Land (Reserves) Act 1978 applying to that land were revoked. These provisions have taken effect and are spent.

1.14 The following Appropriation Acts—

Appropriation (2006/2007) Act 2006 (No. 36/2006)

Appropriation (Parliament 2006/2007) Act 2006 (No. 37/2006)

Appropriation (Parliament 2007/2008) Act 2007 (No. 20/2007)

Appropriation (2007/2008) Act 2007 (No. 23/2007)

New appropriation Acts are enacted each year. These appropriation Acts are spent in their operation.

2. Spent Amending Acts with transitional or substantive provisions

The Bill repeals 2 amending Acts² that contain transitional, saving or validation provisions or substantive provisions. The Acts are –

- *State Electricity Commission (Coal Corporation of Victoria) Act 1984 (No.10145)*
- *Transport Legislation (Further Miscellaneous Amendments) Act 2005 (No. 95/ 2005)*

The substantive provisions in these Acts are no longer required because they have taken effect and are spent or they are redundant. Any continuing effect of the transitional and saving provisions and the effect of any validation provisions will be preserved by section 14 of the *Interpretation of Legislation Act 1984*.

3. Spent Amending Acts – wholly in operation

There are 8 further spent amending Acts in Schedule 2 listed below. The explanatory memorandum states that these Acts are wholly in operation and have amended the Acts they were enacted to amend and that they contain no transitional, savings, validation or substantive provisions.

- *Energy Legislation (Consumer Protection and Other Amendments) Act 2003*

² Items 2.1 to 2.2 in the explanatory memorandum.

- *Accident Compensation and Transport Accident Acts (Amendment) Act 2003*
- *Major Crime Legislation (Office of Police Integrity) Act 2004*
- *Firearms (Further Amendment) Act 2005*
- *Mineral Resources Development (Sustainable Development) Act 2006*
- *Transport (Taxi-cab Accreditation and Other Amendments) Act 2006*
- *Road Legislation (Projects and Road Safety) Act 2006*
- *Crimes Amendment (Child Homicide) Act 2008*

Recommendation 2

The Committee is satisfied that the proposed repeal of the 17 principal Acts and the remaining 10 amending Acts listed in Schedule 2 are spent or redundant and are appropriate to be included in a Statute Law Revision Bill. The Committee is satisfied that any residual effect of transitional or substantive provisions will be preserved by section 14 of the Interpretation of Legislation Act 1984.

Unproclaimed Acts

The Committee considers that without reasonable justification a commencement by proclamation provision or a lengthy delay in the commencement of an Act may, without sufficient justification, constitute an inappropriate delegation of legislative power.³

The Committee observes that the remaining unproclaimed Act under scrutiny by the Committee is the *Footscray Land (Amendment) Act 1990* (see **Appendix 2**).

The Committee notes that it has previously received advice from the Department of Planning and Community Development on the former Minister's behalf that this Act is no longer necessary to be proclaimed and may be repealed.

Ministerial Correspondence

*The Committee will write to the Minister for Planning seeking further advice concerning the repeal of the *Footscray Land (Amendment) Act 1990*.*

³

Parliamentary Committees Act 2003, section 17(a)(vi).

Appendix 1

Chief Parliamentary Counsel's Certificate



PARLIAMENTARY COUNSEL VICTORIA

Your Reference:
Our Reference: JB:EAM

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11 February 2011

Mr Edward O'Donohue MLC
Chair
Scrutiny of Acts and Regulations Committee
Parliament House
Spring Street
MELBOURNE VIC 3002

Scrutiny of Acts and

14 FEB 2011

Regulations Committee

Dear Mr O'Donohue

STATUTE LAW REVISION BILL 2011

As you are aware, this Bill was introduced into the Legislative Council on 9 February 2011 and referred to the Scrutiny of Acts and Regulations Committee on 10 February 2011.

In accordance with the usual practice for this kind of Bill, I certify that Schedule 1 contains only amendments appropriate for a statute law revision Bill and does not make any substantive changes to the statute law of Victoria.

I also certify that Schedule 2 to 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 redundant or spent and can be safely repealed. Any transitional, saving or validation provisions in the Act to be repealed will be saved by section 14 of the **Interpretation of legislation Act 1984**.

I can be contacted on 9651 2135 should your Committee have any queries about any provision of the Bill.

Yours sincerely

JOHN BUTERA
Acting Chief Parliamentary Counsel



Appendix 2

Unproclaimed Acts

The Committee provides the following information⁴ pursuant to section 17(a)(iv) of the *Parliamentary Committees Act 2003* concerning any unproclaimed Act(s).

Unproclaimed Acts

Footscray Land (Amendment) Act 1990

⁴ Source: Office of the Chief Parliamentary Counsel of Victoria.