



SCRUTINY OF ACTS AND  
REGULATIONS COMMITTEE

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# **Report on the Statute Law Revision Bill 2014**

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**Parliament of Victoria, Australia**

**Scrutiny of Acts and Regulations Committee**

**Report on the Statute Law Revision Bill 2014**

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## Scrutiny of Acts and Regulations Committee

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# Referral to Committee

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## Extracted from the Minutes of the Proceedings of the Legislative Council

No 3 — Wednesday, 11 February 2015

13 **STATUTE LAW REVISION BILL 2014** — Mr Jennings moved, That the Statute Law Revision Bill 2014 be referred to the Scrutiny of Acts and Regulations Committee for inquiry, consideration and report.

Question — put and agreed to.

# Terms of Reference

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## *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

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## **Recommendation 1**

The Committee considers that the retrospective application of amendments proposed to be made to Acts by items 9, 16, 19, 23, 62, 66 are appropriate to ensure that the respective amended provisions took effect as originally intended. The Committee considers that the amendments do not trespass unduly on rights or freedoms.

## **Recommendation 2**

The Committee is satisfied that the proposed amendments made to the Acts listed in Schedule 1 are not of a substantive nature and only correct minor errors or omissions or repeal spent sections, divisions or parts of Acts or remedy incorrect legislative instructions or failed amendments.

The Committee considers that the amendments are therefore appropriate to be included in a statute law revision Bill.

# Statute Law Revision Bill 2014

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<b>Introduced</b>	23 December 2014
<b>Second Reading Speech</b>	11 February 2015
<b>House</b>	Legislative Council
<b>Minister introducing Bill</b>	Hon. Gavin Jennings MLC
<b>Portfolio responsibility</b>	Premier

## Reference to the Committee

On 11 February 2015 on the motion of the Hon. Gavin Jennings MLC, the Legislative Council resolved to refer the Statute Law Revision Bill 2014 (the 'Bill') to the Scrutiny of Acts and Regulation Committee (the 'Committee') for inquiry, consideration and report.

## The role of the Committee

The role of the Committee in considering the Bill is to ensure that the amendments sought to be made to a large number of unrelated 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 or grammatical errors. Other acceptable statute law revision amendments update nomenclature such as the names of government agencies, successor Act names or repeal spent sections, divisions or parts of Acts. In other instances amendments correct ineffective legislative instructions that have failed to make the amendment originally proposed. The Committee accepts that such house keeping amendments are intended to clarify the original intent of the Act or update provisions in those Acts.

Where statute law revision amendments are intended to apply retrospectively the Committee seeks to ensure that there is a rationale and legitimate reason for applying the amendment to the particular retrospective date required.

In considering statute law revision Bills the Committee is mindful of the accepted principles of statutory interpretation regarding such Bills. In this respect 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, 6<sup>th</sup> Edition (2006), at page 262).

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

## Purpose of this statute law revision Bill

The Bill proposes to:

- correct minor errors or omissions such as cross-references, spelling, drafting or grammatical errors
- remedy ineffective legislative instructions or amendments made by Acts
- repeal spent subsections, sections, divisions or parts of Acts

## Extracts from the Second Reading Speech

The Committee notes the following extract from the Minister's Second Reading Speech<sup>1</sup> –

The Bill before the house, the Statute Law Revision Bill 2014, is a regular mechanism for updating and maintaining the accuracy of statute law in Victoria. The Bill ensures that the state's laws remain clear, relevant and accurate.

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 also repeals amending provisions of acts that are spent and have no further operation.

## Office of the Chief Parliamentary Counsel

The Chief Parliamentary Counsel provided the Committee with a certificate dated 16 February 2015 declaring that the Bill contains only amendments that are appropriate to be included in a statute law revision Bill, and do not contain amendments that make any substantive changes to the statute law of Victoria.

On 23 February 2015 the Committee received further evidence from Ms Gemma Varley the Chief Parliamentary Counsel, Ms Elizabeth Moore, Parliamentary Counsel and Ms Natalie Plumstead, Parliamentary Counsel.

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

The evidence and certificate were to the effect that the Bill contained only amendments that were appropriate for a statute law revision Bill and did not make any substantive changes to the statute law of Victoria.

The Committee noted the certificate and considered the evidence given.

## Statement of Compatibility

The Committee notes the Statement of Compatibility attached to the Second Reading Speech 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 Act 2006*.

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<sup>1</sup> Parliamentary debates, Legislative Council, 11 February 2015

## Charter report

The Committee considers the Statute Law Revision Bill 2014 is compatible with the rights set out in the Charter of Human Rights and Responsibilities.

## The Bill in brief

### [Clauses]

[1]. *Purpose* – The Bill revises the statute law of Victoria.

[2]. *Commencement* – Other than specified items in Schedule 1, the amendments and repeals come into force on 1 August 2015. The specified items have retrospective application and are examined individually in this report.

[3]. *Schedule 1* – provides for general statute law revision amendments such as the repeal of spent sections, divisions or parts, the correction of grammar, punctuation, spelling, cross referencing errors. Other amendments rectify failed or ineffective amendments.

[4]. *Automatic repeal* – This Act will be automatically repealed on 1 August 2016. Once the amendments in the Bill have taken effect on 1 August 2015, the Statute Law Revision Act 2014 will be spent.

## Schedule 1 – Amendment of Acts – General Amendments

The Schedule contains sixty-eight (68) 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. Retrospective provisions

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

#### **Item 9 – Children, Youth and Families Act 2005 (No. 96/2005) (the Act)**

The item substitutes section 17(4) of the Act which was amended by section 5(2) of the Children, Youth and Families Amendment (Security Measures) Act 2014 (the amending Act) (to be repealed on 1 July 2015). This item corrects an incorrect instruction in section 5(2) of the amending Act to substitute the whole of section 17(4). The purpose of the amendment made by section 5(2) of the amending Act to section 17(4) of the Act was to substitute some of the words in section 17(4). The instruction should have said "In" section 17(4) rather than "For" section 17(4).

The amendment is made retrospective to 1 July 2014, which is the day section 5(2) of the amending Act came into operation. This removes any doubt that the amendment took effect as intended.

#### **Item 16 – Dangerous Goods Act 1985 (No. 10189) (the Act)**

The item substitutes the definition of Authority in section 3(1) of the Act which was amended by item 11(1) of Schedule 9 to the Workplace Injury Rehabilitation and Compensation Act 2013 (the amending Act). Schedule 9 of the amending Act is to be repealed on 1 July 2015. Item 11(1) of Schedule 9 incorrectly omitted the words "section 18 of" which were part of the words to be deleted from the phrase to be substituted by the amending Act.

The amendment is made retrospective to 1 July 2014, the day on which item 11(1) of Schedule 9 came into operation. This removes any doubt that the amendment took effect as intended.

**Item 19 – Environment Protection and Sustainability Victoria Amendment Act 2014 (No. 20/2014) (the amending Act)**

The item amends section 30 of the amending Act to repeal section 71(1)(cb) and (cc) of the Environment Protection Act 1970 (the Act). Section 30 of the amending Act had incorrectly referred to section 71(cb) and (cc) of the Act.

The item has been made retrospective to 29 June 2014, the day before section 30 of the amending Act came into operation. The amendment has been made to remove any doubt that section 30 of the amending Act took effect as intended from its commencement day.

**Item 23 – Greenhouse Gas Geological Sequestration Act 2008 (No. 61/2008) (the Act)**

The item amends section 311 (a transitional provision) which amends section 264(1) and (2) of the Act (on the fourth anniversary of section 264 coming into operation) to replace the reference to 'the Minister' with the word 'Minister'. The instruction in section 311 for amending section 264(1) was incorrect. The amendment made by this item makes the amendment to section 264(1) effective and does not affect the operation of the amendment to section 264(2).

The amendment is made retrospective to 30 November 2013, the day before section 311 came into operation, to remove any doubt that the amendment to section 264(1) took effect as intended.

**Item 62 – Victoria Police Amendment (Consequential and Other Matters) Act 2014 (No. 37/2014)**

Item 62.1 amends item 46.3 of the Schedule to substitute the incorrect reference to section 92(1)(a) of the Domestic Animals Act 1994 with section 92(a) of that Act.

The item is made retrospective to 30 June 2014, the day before item 46.3 came into operation, to remove any doubt that the amendment took effect as intended.

Item 62.2 amends item 54.4 of the Schedule that commenced on 1 July 2014 and which incorrectly refers to the Police Regulation Act 2013 rather than to the Police Regulation Act 1958 in section 20E(6)(b) of the Emergency Services Superannuation Act 1986.

The amendment is made retrospective to 30 June 2014, the day before item 54.4 came into operation. This removes any doubt that the amendment took effect as intended.

Item 62.3 amends item 85.1(h) of the Schedule that commenced on 1 July 2014 and which incorrectly refers to the substitution of words in paragraph (b) rather than paragraph (a) of the definition of report of the Chief Commissioner of Police in section 3(1) of the Independent Broad-based Anti-corruption Commission Act 2011.

The amendment is made retrospective to 30 June 2014, the day before item 85.1(h) came into operation. This removes any doubt that the amendment took effect as intended.

Item 62.4 amends item 184.20(b) of the Schedule that commenced on 1 July 2014 and which incorrectly includes the word "a" in the words to be substituted and the substituted words in section 62(2) and (3) of the Wildlife Act 1975. In both cases the word "a" should be omitted. The amendment made by this item makes the amendment to section 62(2) and (3) effective and does not affect the operation of the amendment made to section 62(5).

The amendment is made retrospective to 30 June 2014, the day before item 184.20(b) came into operation. This removes any doubt that the amendment took effect as intended.

**Item 66 – Victorian Managed Insurance Authority Act 1996 (No. 11/1996) ('the Act')**

This item substitutes section 24(2) of the Act which was amended by item 34 of Schedule 9 to the Workplace Injury Rehabilitation and Compensation Act 2013 ('the 2013 Act'). Schedule 9 of the 2013 Act will be repealed on 1 July 2015.

Item 34 of Schedule 9 of the 2013 Act referred to the definition of Victorian WorkCover Authority in section 24(2) of the Act in inserting a reference to the 2013 Act in the Act. However, section 24(2) of the Act does not contain a definition of Victorian WorkCover Authority.

The amendment is made retrospective to 1 July 2014, the day item 34 of Schedule 9 of the 2013 Act came into operation. This removes any doubt that the amendment took effect as intended.

**Recommendation 1**

The Committee considers that the retrospective application of amendments proposed to be made to Acts by items 9, 16, 19, 23, 62, 66 are appropriate to ensure that the respective amended provisions took effect as originally intended.

The Committee considers that the amendments do not trespass unduly on rights or freedoms.

**2. Errors in spelling, grammar, punctuation, typographical errors, extraneous or omitted words**

Items 1, 2, 5, 10, 12, 13, 16, 17, 20, 23, 24, 25, 26, 27, 30, 31.1, 34.1, 34.2, 34.3, 36, 37, 40, 41.3, 42.2, 43, 44.1, 44.2, 44.3, 46, 47.1, 47.4, 47.5, 48, 49, 51, 53, 55.1, 55.2, 55.3, 57.1, 57.2, 58, 60, 62.4, 65, 67 and 68.

**3. Reference or cross reference errors**

Items – 15, 31.2, 41.1, 41.2, 42.1, 47.2, 47.3, 54.1, 54.2, 61 and 62.2.

**4. Redundant provision**

Items – 3, 4, 8, 11, 14, 18, 19, 21, 22, 28, 33, 38, 39, 45, 50, 56 and 59.

**5. Repeal of spent provisions that have commenced operation and have achieved their purpose**

Items – 6, 7, 35, 52, 63 and 64.

**6. Ineffective legislative instruction (e.g. 'insert' instead of 'substitute' or failed amendment) or numbering error**

Items – 9, 29, 32.1, 32.2, 62.1, 62.3 and 66.

**Recommendation 2**

The Committee is satisfied that the proposed amendments made to the Acts listed in Schedule 1 are not of a substantive nature and only correct minor errors or omissions or repeal spent sections, divisions or parts of Acts or remedy incorrect legislative instructions or failed amendments.

The Committee considers that the amendments are therefore appropriate to be included in a statute law revision Bill.



# Appendix

## Chief Parliamentary Counsel's Certificate

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### PARLIAMENTARY COUNSEL VICTORIA

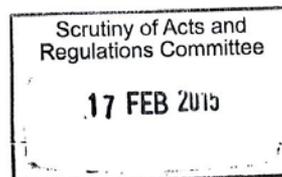
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Your Reference:  
Our Reference: GV:EAM:NP

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16 February 2015

Ms Elizabeth Blandthorn  
Chairperson  
Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
MELBOURNE VIC 3002



Dear Ms Blandthorn

#### STATUTE LAW REVISION BILL 2014

As you are aware, this Bill was introduced into the Legislative Council on 23 December 2014 and referred to the Scrutiny of Acts and Regulations Committee on 11 February 2015.

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

I can be contacted on 9651 2109 should your committee have any queries about any provisions of the Bill.

Yours sincerely

GEMMA VARLEY  
Chief Parliamentary Council