

Legislation Review Committee



PARLIAMENT OF
NEW SOUTH WALES

Legislation Review Digest



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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Membership

Chair	Ms Lynda Voltz MP, Member for Auburn
Deputy Chair	Ms Maryanne Stuart MP, Member for Heathcote
Members	Ms Donna Davis MP, Member for Parramatta Mr Nathan Hagarty MP, Member for Leppington Ms Sue Higginson MLC Mr Dave Layzell MP, Member for Upper Hunter The Hon. Jacqui Munro MLC The Hon. Cameron Murphy MLC
Contact details	Legislation Review Committee Parliament of New South Wales 6 Macquarie Street Sydney NSW 2000
Telephone	0408 029 815
E-mail	Legislation.Review@parliament.nsw.gov.au
Website	www.parliament.nsw.gov.au/lrc

Guide to the Digest

The Legislation Review Committee has two broad functions set out in sections 8A and 9 of the *Legislation Review Act 1987* (**the Act**). Section 8A requires the Committee to scrutinise all Bills introduced into Parliament while section 9 requires the scrutiny of all regulations.

Part One: Functions Regarding Bills

The Committee's purpose is to assist all members of Parliament to be aware of, and make considered decisions on, the rights implications of legislation. The Committee does not make specific recommendations on Bills and does not generally comment on government policy.

The Committee's functions with respect to Bills as established under section 8A of the Act are as follows:

- (a) to consider any Bill introduced into Parliament, and
- (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
 - (i) trespasses unduly on personal rights and liberties
 - (ii) makes rights, liberties and obligations unduly dependent upon insufficiently defined administrative powers
 - (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions
 - (iv) inappropriately delegates legislative powers, or
 - (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

The terms of section 8A are not defined. However, the types of issues the Committee typically addresses in its Digests include, but are not limited to:

Trespass unduly on personal rights and liberties:

- retrospectivity
- self-incrimination and the right to silence
- reversal of the onus of proof
- procedural fairness
- rule of law and separation of powers
- extraterritoriality
- strict liability and penalty notice offences
- search and seizure without warrant
- confidential communications and privilege
- wide regulatory powers
- access to vote
- ability to engage in public life and public elections
- equal application of laws
- freedom of expression and free speech
- freedom of religion and belief
- freedom of contract
- right to personal and real property
- privacy and protection of personal information
- right to personal physical integrity
- legislative interference in standing judicial matters

Insufficiently defined administrative powers:

- insufficiently defined or wide powers

Non-reviewable decisions:

- excludes access to review
- limits type of evidence available to a decision-maker
- provides decision-maker is not required to provide reasons for a decision
- decisions made in private

Inappropriate delegation of legislative powers:

- provides the executive with unilateral authority to commence an Act (i.e. commencement by proclamation)
- wide power of delegation
- wide regulation-making powers (e.g. creation of offences or setting penalties)
- Henry VIII clauses (clauses that allow amendment of Acts by regulation)
- imposition of tax or levy by regulation

Insufficiently subjects the exercise of legislative power to parliamentary scrutiny

- subordinate legislation not tabled in Parliament and not subject to disallowance
- insufficient disallowance period
- significant matters which should be set by Parliament (e.g. definitions)
- incorporating rules or standards of other bodies in force not subject to disallowance

In practice, the Committee highlights issues of concern and takes into consideration the potential reasons for introducing such a provision and any safeguards in place. The Committee determines if the provisions may be reasonable in the circumstances or should be referred to Parliament for further consideration.

Under section 8A(2) of the Act, Parliament may pass a Bill whether or not the Committee has reported on it. However, this does not prevent the Committee from reporting on any passed or enacted Bill.

Part Two: Functions Regarding Regulations with Comments

The Committee's functions regarding regulations are established under section 9 of the Act:

- (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament, and
- (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
 - (i) that the regulation trespasses unduly on personal rights and liberties
 - (ii) that the regulation may have an adverse impact on the business community
 - (iii) that the regulation may not have been within the general objects of the legislation under which it was made
 - (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made
 - (v) that the objective of the regulation could have been achieved by alternative and more effective means
 - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act
 - (vii) that the form or intention of the regulation calls for elucidation, or
 - (viii) that any of the requirements of sections 4, 5 and 6 of the [Subordinate Legislation Act 1989](#), or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and

- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.

The Committee may write to the relevant Minister for further information or, as with Bills, refer particular matters to the Parliament for further consideration. As above, the Committee may also recommend that Parliament disallow a regulation that has been made.

Part Three: Regulations without Comment

The Committee reviews all disallowable regulations which have been tabled in Parliament. However, unlike Bills, the Committee is only required by statute to report on those regulations with identified issues under section 9, rather than reporting on every regulation made.

Part Three to the Digest contains a brief summary of the regulations that do not engage with any issues under section 9 or, in the Committee's view, do not warrant further comment.

Conclusions on Bills and Regulations

Part One of the Digest contains the Committee's reports on Bills which were introduced into Parliament. Under the section titled 'Issues considered by the Committee', the report includes commentary about whether the Bill engages with one or more of the five criteria for scrutiny set out in section 8A(1)(b) of the Act. This will include either:

- Where no issues set out in section 8A(1)(b) are identified, that 'The Committee makes no comment in respect of the issues set out in section 8A of the LRA.'
- Where issues set out in section 8A(1)(b) are identified, a distinct comment on each issue identified.

Part Two of the Digest contains the Committee's reports on regulations and other statutory instruments which are tabled in Parliament and are still subject to disallowance. As noted, the Committee only reports on regulations and other statutory instruments with identified issues under section 9 of the Act, and those instruments which don't have identified issues are listed in Appendix Two of the Digest. Like Bill reports, the Committee's regulation reports includes a distinct comment on each issue identified under the section titled 'Issues considered by the Committee'.

For every issue identified in a report, the Committee's comment will conclude either that the Committee 'refers/notes the matter to Parliament' or 'makes no further comment'.

Where the Committee concludes to **refer/notes the matter to Parliament**, the Committee considers that it requires a response or further comment by the Member with carriage of the Bill (for Bill reports) or the responsible Minister (for regulation reports).

Where the Committee concludes to **make no further comment** on an identified issue in the report, the Committee considers that the issue may technically engage with the criteria under section 8A or 9 of the Act but, given counterbalancing considerations (e.g. legislated safeguards), it is unlikely in practice to raise the issues under the relevant section. The Committee invites but does not otherwise require the Member with carriage (for Bill reports) or the responsible Minister (for regulation reports) to comment on these identified issues.

Digest Snapshot

PART ONE – BILLS

[1. Children's Guardian Amendment Bill 2025](#)

Issue identified	Conclusion of Committee
No issues identified	

[2. Conveyancing and Real Property Amendment Bill 2025](#)

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment
Wide powers of delegation	Referred
Incorporating significant matters in external rules not subject to disallowance	Referred

[3. Evidence \(Audio and Audio Visual Links\) Amendment \(Local Court Bail Division\) Bill 2025](#)

Issue identified	Conclusion of Committee
Access to justice	Referred
Commencement by proclamation	No further comment

[4. Game and Feral Animal Legislation Amendment \(Conservation Hunting\) Bill 2025*](#)

Issue identified	Conclusion of Committee
Subordinate instrument not subject to parliamentary scrutiny	Referred

[5. Industrial Relations and Other Legislation Amendment \(Workplace Protections\) Bill 2025](#)

Issue identified	Conclusion of Committee
Privacy and protection of personal information	Referred
Henry VIII clause	Referred
Commencement at proclamation	No further comment

[6. Road Transport Amendment \(Medicinal Cannabis-Exemptions from Offences\) Bill 2025*](#)

Issue identified	Conclusion of Committee
Reversal of the onus of proof	No further comment

[7. Workers Compensation Legislation Amendment Bill 2025](#)

Issue identified	Conclusion of Committee
Procedural fairness in compensation claims	Referred
Wide regulation making powers	No further comment
Henry VIII clause	Referred
Commencement by proclamation	No further comment
Incorporating significant matters in external guidelines not subject to disallowance	Referred

PART TWO – REGULATIONS WITH COMMENT

1. District Court Criminal Practice Note 29 Management of Criminal Proceedings listed in the Downing Centre

Issue identified	Conclusion of Committee
Right to procedural fairness	Referred

Summary of Conclusions

PART ONE – BILLS

1. Children’s Guardian Amendment Bill 2025

The Committee makes no comment in respect of the issues set out in section 8A of the *Legislation Review Act 1987*.

2. Conveyancing and Real Property Amendment Bill 2025

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

Clause 2[a] stipulates that the changes proposed to Schedule 1[13] and [16]-[30] of the Bill would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. For this reason, the Committee makes no further comment.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Wide powers of delegation

The Bill seeks to amend section 202(6) of the Conveyancing Act 1919 to allow regulations to authorise a 'matter or thing' to be determined, applied or regulated from time to time by a specified person or body. However, the proposed amendment does not set a timeframe, identify the person or body to whom this power may be given, or specify the type of matter that may be subject to regulation.

The Committee acknowledges that the amendment may be intended to support efficient and economical administration and modernise the Act to reflect current regulatory and governance practices.

However, the Committee notes that the proposed amendment would enable a broad delegation of statutory functions without setting clear parameters. The Committee generally prefers that the classes of persons and the scope of powers being delegated are detailed in primary legislation to provide clarity and enable appropriate oversight of the exercise of those functions. For this reason, the Committee refers the matter to the Parliament for consideration.

Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA

Incorporating significant matters in external rules not subject to disallowance

The Bill seeks to amend section 12E of the Real Property Act 1900 to provide that the Registrar General may be granted further powers under the conveyancing rules, allowing them to make determinations on particular matters.

The Committee recognises that allowing certain matters to be determined by the Registrar General may provide greater flexibility and support the ongoing modernisation of conveyancing processes. It acknowledges that the rules are intended to ensure the framework remains responsive to technological developments and evolving business practices in the property sector.

However, there does not appear to be any requirement for those rules, or any changes to them, to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in legislation or regulations where they can be subjected to parliamentary scrutiny, particularly where they affect individual rights and liberties. For this reason, the Committee refers the matter to the Parliament for consideration.

3. Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Bill 2025

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Access to justice

The Bill proposes to amend the *Evidence (Audio and Audio Visual Links) Act 1998* by removing first appearance bail proceedings from the definition of 'physical appearance proceedings'. It would also allow an accused detainee to appear before a court by audio link in certain circumstances.

The Committee acknowledges that the use of audio and audio visual links in court proceedings can deliver cost savings and practical benefits, particularly in reducing workload pressure for staff in regional court services. The Committee also notes, as outlined in the proposed note, that the *Bail Act 2013* requires bail applications to be dealt with as soon as reasonably practicable. The Committee further recognises that courts retain discretion to order a physical appearance, either on their own initiative or at the request of a party or designated government agency, if it is in the interests of the administration of justice.

However, the Committee is concerned that if an accused detainee were to appear by audio link during bail proceedings, the magistrate would only hear the accused and not see them. While the Committee acknowledges that such appearances are intended to occur only in limited circumstances and are not expected to become the norm, it considers that even in those cases, the accused's ability to communicate effectively through facial expressions, gestures, or other non-verbal cues may be significantly limited. These concerns are particularly relevant in resource-limited areas, where physical transport and audio-visual links may be limited, leaving audio-only appearances as a 'default'. As a consequence, the Committee considers that applying these changes to first appearance bail proceedings may affect an accused's right to a fair trial, including their access to justice. For these reasons, the Committee refers the matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

Clause 2 of the Bill stipulates that the changes proposed to the *Evidence (Audio and Audio Visual Links) Act 1998* would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. In the circumstances, the Committee makes no further comment.

4. Game and Feral Animal Legislation Amendment (Conservation Hunting) Bill 2025*

Subordinate instrument not subject to parliamentary scrutiny

The Bill amends the *Crown Land Management Act 2016* to allow targeted conservation hunting on declared areas of Crown land, excluding national park estate land, by persons holding a conservation hunting licence. Under proposed schedule 5A, certain Crown lands would be designated for hunting. Proposed subsection 9A.4 would allow the Minister for Lands and Property (the Minister), after consulting with the Conservation Hunting Authority, to amend or substitute Schedule 5A by order published on the NSW legislation website. This means the Minister could designate Crown lands for hunting through subordinate legislation. The Committee considers that such decisions should be dealt with by amending the Act itself to ensure more robust parliamentary scrutiny. Proposed schedule 5A would list the areas of Crown land available for hunting, which means that key rules would be set out in external documents rather than in the legislation itself.

The Committee recognises that this approach may provide flexibility and allow updates to reflect changing regulatory advice. It also notes that the scheme is intended to support the efficient operation of conservation hunting.

However, the Committee generally prefers that substantive matters are set out in legislation where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect the public's ability to access Crown land freely and safely. For this reason, the Committee refers the matter to Parliament for consideration.

5. Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy and protection of personal information

The Bill amends the *Work Health and Safety Act 2011* to enable the regulator and the Secretary of the Department of Customer Service (to be known as SafeWork NSW) to enter into information sharing arrangements with a broad range of agencies. Proposed subsection 271AA(2) would allow for the sharing of work health and safety information and information 'of a type prescribed by the regulations.' Proposed subsection 271AA(8) would allow information to be shared with a wide range of entities, including agencies from other jurisdictions and any person or body that

exercises public official functions and is prescribed by the regulations. The Bill would also expand the powers of authorised entry permit holders. Under proposed section 118 in Division 7A, permit holders would be expressly permitted to take measurements, conduct tests, and capture photos or videos when entering a workplace. This may intrude on the privacy rights of individuals.

The Committee notes that the scope of the information that may be shared is broad and may be expanded through regulations. The types of agencies with which information may be shared is also not clearly defined. Further, the provisions would permit a relevant agency to require disclosure of personal information without notifying the individual or giving them an opportunity to object. This may infringe privacy rights, as personal information is protected under *the Privacy and Personal Information Protection Act 1998*.

The Committee also notes that the expanded evidence-gathering powers may impact privacy, particularly where photographs or videos capture sensitive personal information. In the absence of clear safeguards on how such information is used, stored, or retained, the Committee refers the matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Henry VIII clause

The Bill seeks to insert section 400K into the *Industrial Relations Act 1996* to allow regulations to apply criminal procedure provisions to civil proceedings ‘with or without modification’.

This provision may therefore amount to a Henry VIII clause by allowing the Executive to amend the operation of the parent Act without reference to Parliament. The Committee generally considers Henry VIII clauses in bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee notes that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, as regulations made under the proposed provision may substantially modify the operation of provisions of the Act that impact personal rights to compensation, the Committee refers this issue to Parliament for consideration.

Commencement at proclamation

Schedules 1[1], [3], [6], [9], [22], [23], [29]–[31], [39] and [41], and Schedule 3 of the Bill would commence on a day to be appointed by proclamation.

The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee recognises that time may be needed for the Government to implement these changes and coordinate the reforms between the relevant agencies. For this reason, the Committee makes no further comment.

6. Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2025*

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Reversal of the onus of proof

The Bill amends section 111 of the *Road Transport Act 2013* to create an exception to the offence of driving with a prescribed illicit drug in a person's oral fluid, blood or urine. It would allow a person to drive with delta-9-tetrahydrocannabinol (THC) in their system in certain circumstances.

Under the proposed section 111(1A), an accused person would bear the burden of proving that the THC was lawfully prescribed and used. This reverses the usual onus of proof and may limit the right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights. The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to law.

However, the Committee recognises that the prosecution would still need to prove the essential elements of the offence beyond reasonable doubt, while the accused person would need to prove, on the balance of probabilities, that the THC was lawfully obtained and administered. The Committee acknowledges that the presumption of innocence is not absolute, and that reverse onus defences are not uncommon in criminal law. The Committee also notes that the proposed defence would provide an avenue for an accused person to prove that their conduct was lawful and therefore favours an individual's rights. In the circumstances, the Committee makes no further comment.

7. Workers Compensation Legislation Amendment Bill 2025

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Procedural fairness in compensation claims

The Bill amends the *Workers Compensation Act 1987* to set out a process for determining a claimant's degree of permanent impairment. Proposed section 153N sets out the powers of an assessor during the principal assessment, including the authority to require the production of medical records. If a person refuses to undergo an examination by the assessor or obstructs the examination, their right to recover compensation and receive weekly payments is suspended until the examination takes place. This could impact a person's privacy and procedural rights in relation to their compensation claim.

The Bill does not provide for an avenue to review the suspension of a person's compensation or provide a justifiable basis on which a person could refuse to undergo an examination or obstruct an examination. Further, 'obstruct' is not defined, which could lead to the arbitrary denial of compensation to individuals with otherwise legitimate claims.

The Committee acknowledges that the suspension of compensation and weekly payments is intended to encourage compliance with the principal assessment process. This is intended to support the efficient administration of the workers compensation scheme and the timely resolution of claims. However, without a right of review or safeguards for affected individuals, the suspension of compensation may operate punitively. For this reason, the Committee refers this matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Wide regulation making powers

The Bill seeks to amend the *Workers Compensation Act 1987* and the *Personal Injury Commission Act 2020* to defer a number of significant matters to regulations. These include applications for principal assessments of permanent impairment, circumstances for further principal assessments, and procedures for insurers when making decisions about work capacity and pre-injury average weekly earnings.

The Committee generally prefers substantive matters to be set out in principal legislation, rather than in regulations, to facilitate an appropriate level of parliamentary oversight.

However, the Committee recognises that the provisions may be intended to build more flexibility into the regulatory framework and to facilitate the efficient operation of the workers compensation scheme. The Committee also acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.

Henry VIII clause

The Bill inserts section 264A into the *Workplace Injury Management and Workers Compensation Act 1998* to allow regulations to provide for the modification of the application of Divisions 1 and 2 of the Act. These provisions relate to claims made for primary psychological injury.

This provision may therefore amount to a Henry VIII clause by allowing the Executive to amend the operation of the parent Act without reference to Parliament. The Committee generally considers Henry VIII clauses in bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee notes that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, as regulations made under the proposed provision may substantially modify the operation of provisions of the Act that impact personal rights to compensation, the Committee refers this issue to Parliament for consideration.

Commencement by proclamation

The Bill would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee recognises that the Bill establishes new administrative arrangements regarding the workers compensation scheme in NSW. Time may be needed for the Government to implement these changes and coordinate the reforms between the relevant agencies. For this reason, the Committee makes no further comment.

**Insufficiently subjects the exercise of legislative power to parliamentary scrutiny:
s 8A(1)(b)(v) of the LRA**

Incorporating significant matters in external guidelines not subject to disallowance

The Bill amends the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* to specify matters that can be incorporated into the Workers Compensation Guidelines (the Guidelines). The Guidelines are made by the State Insurance Regulatory Authority (the Authority) and published in the NSW Government Gazette. Matters provided for by the Guidelines would include: the management of compensation claims, the process for assessing permanent impairment, and the determination of deductions for previous injuries. This means that significant matters would be set out in external material, rather than in legislation.

The Committee understands that the incorporation of matters into the Guidelines may provide greater flexibility and allow updates to reflect changing regulatory advice and practices. It acknowledges that the Guidelines are intended to support the efficient operation of the workers compensation scheme and enable the Authority to exercise its statutory functions.

However, there does not appear to be any requirement for the Guidelines, or any updates to them, to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in legislation where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect individual rights and liberties. For this reason, the Committee refers the matter to Parliament for consideration.

PART TWO – REGULATIONS WITH COMMENT

1. District Court Criminal Practice Note 29 Management of Criminal Proceedings listed in the Downing Centre

Trespasses unduly on personal rights and liberties: s 9(1)(b)(i) of the LRA

Right to procedural fairness

The District Court Criminal Practice Note 29 – Management of Criminal Proceedings listed in the Downing Centre changes several filing deadlines for parties at various stages of proceedings. Clause 8 shortens the timeframe for the Prosecution to file and serve the Indictment, Brief Index and Crown Case Statement. As a result, the accused, or their lawyers, if represented, receive the indictment bundle five days later than previously required under the District Court Criminal Practice Note 18.

The shorter timeframe gives the accused less time to review the Prosecution's case and decide on their plea. While certain materials, including the brief of evidence, are served at earlier stages of proceedings, the timely filing and service of the indictment bundle at later stages remains critical to upholding the accused's right to procedural fairness. The plea entered at the arraignment is particularly important for sentencing, as an early guilty plea may result in a discounted sentence.

The Committee notes that the accused has the right to know and understand the Crown case against them in order to respond to allegations and make an informed decision about their plea. Having less time to consider the material and case against them undermines this right and impacts their right to procedural fairness. For these reasons, the Committee refers this matter to Parliament for consideration.



Part One – Bills

1. Children’s Guardian Amendment Bill 2025

Date introduced	27 May 2025
House introduced	Legislative Council
Member with carriage	The Hon. Rose Jackson MLC
Portfolio	Families and Communities

Purpose and description

- 1.1 The object of the Bill is to amend the *Children’s Guardian Act 2019* (the **Act**) to implement a number of recommendations arising from the statutory review of the Act tabled in Parliament on 19 December 2024, including by:
- (a) providing that a guiding principle of the Act is the need to consult with the Aboriginal and Torres Strait Islander community on policies and practices that impact Aboriginal and Torres Strait Islander children
 - (b) ensuring employees who are the subject of a reportable allegation or reportable conviction against a child, including a sexual offence, assault, ill-treatment, neglect or behaviour that causes significant emotional or psychological harm to a child (**reportable conduct**), are treated consistently with the principle of procedural fairness
 - (c) clarifying obligations in relation to disclosure of information relating to a reportable allegation or reportable conviction
 - (d) ensuring children employed in the entertainment and exhibition industries fall within the scope of the Act, Part 6
 - (e) clarifying the accreditation criteria for a government agency or organisation accredited under the Act, Schedule 3A (a **designated agency**) and adoption service providers.

Background

- 1.2 The Bill proposes amendments to the Act to modify parts of the child protection scheme in NSW relevant to NSW organisations, including the disclosure regime for reportable information.
- 1.3 The Statement of Public Interest tabled with the Bill noted that it would implement recommendations from a statutory review of the Act and give effect to the Government’s response to the report of the Committee on Children and Young People’s 2024 review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children’s Guardian.
- 1.4 In her second reading speech, the Hon. Rose Jackson MLC, Minister for Youth, said that the statutory review focused on four key areas, including ‘the Reportable Conduct

Scheme, the regulation of child employment in specific sectors, Aboriginal and Torres Strait Islander communities, and the Official Community Visitors Scheme', and that the Bill would implement review recommendations to:

...improve the Act's operation, support child related organisations to safeguard the wellbeing of the children they work with and facilitate the exercise of the functions of the Office of the Children's Guardian.

- 1.5 Schedule 1 of the Bill proposes the following key amendments to:
- (a) insert the guiding principle requiring consultation with Aboriginal and Torres Strait Islander communities to consider and address the impact of policies, practices and procedures on their children, communities and community-controlled organisations (proposed section 8(e2))
 - (b) insert a new section requiring the Children's Guardian, the head of a relevant entity or investigator to disclose information to a child or their parent in certain circumstances, with clear criteria for when disclosure is permitted (proposed section 57)
 - (c) insert a new section allowing the Children's Guardian to disclose information obtained during reportable conduct investigations, subject to defined criteria and purposes (proposed section 58)
 - (d) modify provisions regulating the employment of children in certain industries or activities (proposed section 90)
 - (e) introduce an offence for employing a child without employer authority (proposed section 92(1))
 - (f) modify procedures concerning the office and employment of the Children's Guardian (proposed sections 121, 122 and 123)
 - (g) modify oversight and review provisions relating to Part 3A of the Act and the Committee on Children and Young People (proposed sections 183 and 183A)
 - (h) modify accreditation provisions for certain service providers.
- 1.6 Schedule 2 of the Bill proposes to amend the Children's Guardian Regulation 2022 to modify provisions regulating the employment of children in the entertainment or exhibition industries.
- 1.7 Schedule 3 of the Bill seeks to make minor amendments to the *Advocate for Children and Young People Act 2014*.

Issues considered by the Committee

The Committee makes no comment in respect of the issues set out in section 8A of the *Legislation Review Act 1987*.

2. Conveyancing and Real Property Amendment Bill 2025

Date introduced	27 May 2025
House introduced	Legislative Council
Member with carriage	The Hon. John Graham MLC
Portfolio	Customer Service and Digital Government

Purpose and description

- 2.1 The object of the Bill is to make miscellaneous amendments to the following legislation:
- (a) the Conveyancing Act 1919 (the **Conveyancing Act**)
 - (b) the Conveyancing (General) Regulation 2018
 - (c) the Conveyancing (Sale of Land) Regulation 2022
 - (d) the Real Property Act 1900 (the **Real Property Act**)
 - (e) the Real Property Regulation 2019.

Background

- 2.2 The Bill proposes a number of changes to the Conveyancing Act and the Real Property Act, along with consequential amendments to related regulations.
- 2.3 The changes aim to clarify and modernise conveyancing practices to ensure that they reflect 'modern business processes', as noted by the Hon. Mark Buttigieg MLC in his second reading speech. The Bill would introduce new requirements for registering plans, provide protections for purchasers under land sale contracts, and establish a Central Register of Restrictions.
- 2.4 The Bill also seeks to expand regulation-making powers under both Acts to allow regulations and statutory rules to be reviewed and remade.
- 2.5 Mr Buttigieg stated that 'the bill makes a range of amendments across the land title legislation that will streamline procedures, reduce red tape and accommodate practice changes brought about through continued technology transformations.'
- 2.6 The Statement of Public Interest tabled with the Bill noted that it is intended to 'modernise and streamline the legislative framework supporting the land title system, making it more adaptable to current development needs, supporting digital processes and changes in technology, and simplifying the process of removing unnecessary restrictions and covenants from title to land.'

Issues considered by the Committee

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

- 2.7 Clause 2(a) provides that Schedule 1[13] and [16]-[30] of the Bill would commence on a day or days to be appointed by proclamation.
- 2.8 Schedule 1[13] would introduce an additional means of releasing a positive covenant for maintenance or repair.
- 2.9 Schedule 1[16]-[21] would allow for the creation or release of various land interests through the registration of a plan, including public restrictions or obligations burdening land and positive covenants for maintenance or repair benefiting land.
- 2.10 Schedule 1[22]-[27] relates to restrictions a prescribed authority can place on land it owns.
- 2.11 Schedule 1[30] would allow for the release of a land use restriction or a public positive covenant on land not vested in a prescribed authority. Schedule 1[28] and [29] makes consequential amendments.

Clause 2[a] stipulates that the changes proposed to Schedule 1[13] and [16]-[30] of the Bill would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. For this reason, the Committee makes no further comment.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Wide powers of delegation

- 2.12 Schedule 1[44] of the Bill proposes to amend section 202(6) of the Conveyancing Act to introduce a regulation-making power. This would allow a 'matter or thing' to be determined, applied or regulated from time to time by a specified person or body.
- 2.13 Mr Buttigieg stated that the regulation-making power is intended to 'remove red tape and provide operational flexibility.'

The Bill seeks to amend section 202(6) of the Conveyancing Act 1919 to allow regulations to authorise a 'matter or thing' to be determined, applied or regulated from time to time by a specified person or body. However, the proposed amendment does not set a timeframe, identify the person or body to whom this power may be given, or specify the type of matter that may be subject to regulation.

The Committee acknowledges that the amendment may be intended to support efficient and economical administration and modernise the Act to reflect current regulatory and governance practices.

However, the Committee notes that the proposed amendment would enable a broad delegation of statutory functions without setting clear parameters. The Committee generally prefers that the classes of persons and the scope of powers being delegated are detailed in primary legislation to provide clarity and enable appropriate oversight of the exercise of those functions. For this reason, the Committee refers the matter to the Parliament for consideration.

**Insufficiently subjects the exercise of legislative power to parliamentary scrutiny:
s 8A(1)(b)(v) of the LRA**

Incorporating significant matters in external rules not subject to disallowance

- 2.14 Schedule 4[8] proposes to amend section 12E of the Real Property Act, which concerns conveyancing rules. Under proposed subsection 12E(1), the conveyancing rules may allow certain matters to be determined by the Registrar-General.

The Bill seeks to amend section 12E of the Real Property Act 1900 to provide that the Registrar General may be granted further powers under the conveyancing rules, allowing them to make determinations on particular matters.

The Committee recognises that allowing certain matters to be determined by the Registrar General may provide greater flexibility and support the ongoing modernisation of conveyancing processes. It acknowledges that the rules are intended to ensure the framework remains responsive to technological developments and evolving business practices in the property sector.

However, there does not appear to be any requirement for those rules, or any changes to them, to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in legislation or regulations where they can be subjected to parliamentary scrutiny, particularly where they affect individual rights and liberties. For this reason, the Committee refers the matter to the Parliament for consideration.

3. Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Bill 2025

Date introduced	27 May 2025
House introduced	Legislative Council
Member with carriage	The Hon. Daniel Mookhey MLC
Portfolio	Attorney General

Purpose and description

3.1 The objects of the Bill are as follows:

- (a) to amend the *Evidence (Audio and Audio Visual Links) Act 1998* (the **Act**) to:
 - (i) provide for a presumption of the use of audio visual links in proceedings relating to bail, including first appearance bail matters
 - (ii) authorise a head of jurisdiction for a court to require an accused detainee to appear physically before the court unless the court directs otherwise in circumstances where a presumption in favour of the use of audio visual link exists
 - (iii) allow an accused detainee to appear before the court using an audio link, in particular circumstances, in proceedings relating to bail
 - (iv) clarify existing protections related to the use of audio links and audio visual links in court proceedings under the Act
- (b) to consequentially repeal the Evidence (Audio and Audio Visual Links) Regulation 2024.

Background

- 3.2 The Bill proposes changes to align the Act with the Chief Magistrate's new centralised Bail Division of the Local Court. It would also formalise a presumption of audio visual links (**AVL**) for first appearance bail matters.
- 3.3 In order to achieve this, the Bill would amend the definition of 'physical appearance proceedings' so that it no longer includes first appearance bail matters. The shift would reflect broader changes in NSW.
- 3.4 As the Hon. Mark Buttigieg MLC stated in his second reading speech, 'Developments in technology and changes implemented in response to the COVID-19 pandemic have improved the capacity of the court system to use AVL, leading to greater use across courts in New South Wales.'

- 3.5 He also stated that the proposed model would be 'expected to relieve workload pressure on regional and smaller metropolitan courts, magistrates and court users, and contribute to the effective overall management of the workload of the Local Court.'
- 3.6 The Statement of Public Interest tabled with the Bill noted that the proposed amendment would 'reflect the intended future use of AVL as the default arrangement in bail matters, while allowing sufficient flexibility to accommodate transitional and local arrangements, where physical appearances are necessary or preferable.'

Issues considered by the Committee

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Access to justice

- 3.7 Section 5BB of the Act provides that accused detainees may appear by AVL in all criminal proceedings, except those classified as 'physical appearance proceedings'.
- 3.8 Schedule 1[1] of the Bill proposes to amend section 3(1) to exclude first appearance bail proceedings from the definition of physical appearance proceedings.
- 3.9 Schedule 1[6] of the Bill proposes to insert section 5BB(2A), which would allow an accused detainee to appear by audio link in bail proceedings, only if:
- (a) an AVL fails or is not otherwise available
 - (b) an audio link is available
 - (c) the parties to the proceedings consent to the use of the audio link
 - (d) the court is satisfied that appearing by audio link is in the interests of justice.
- 3.10 Schedule 1[6] also proposes to insert a note after section 5BB(2), which refers to sections 46 and 71 of the *Bail Act 2013* (the **Bail Act**). These provisions require a police officer to bring an accused person before a court as soon as practicable and for a bail application to be dealt with as soon as reasonably practicable. The note clarifies that if the AVL fails or is unavailable for any proceedings relating to bail under the *Bail Act*, the obligation to act promptly under those provisions still applies.

The Bill proposes to amend the *Evidence (Audio and Audio Visual Links) Act 1998* by removing first appearance bail proceedings from the definition of 'physical appearance proceedings'. It would also allow an accused detainee to appear before a court by audio link in certain circumstances.

The Committee acknowledges that the use of audio and audio visual links in court proceedings can deliver cost savings and practical benefits, particularly in reducing workload pressure for staff in regional court services. The Committee also notes, as outlined in the proposed note, that the *Bail Act 2013* requires bail applications to be dealt with as soon as reasonably practicable. The Committee further recognises that courts retain discretion to order a physical appearance, either on their own

initiative or at the request of a party or designated government agency, if it is in the interests of the administration of justice.

However, the Committee is concerned that if an accused detainee were to appear by audio link during bail proceedings, the magistrate would only hear the accused and not see them. While the Committee acknowledges that such appearances are intended to occur only in limited circumstances and are not expected to become the norm, it considers that even in those cases, the accused's ability to communicate effectively through facial expressions, gestures, or other non-verbal cues may be significantly limited. These concerns are particularly relevant in resource-limited areas, where physical transport and audio-visual links may be limited, leaving audio-only appearances as a 'default'. As a consequence, the Committee considers that applying these changes to first appearance bail proceedings may affect an accused's right to a fair trial, including their access to justice. For these reasons, the Committee refers the matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Commencement by proclamation

- 3.11 Clause 2 of the Bill provides that the Bill would commence on a day or days appointed by proclamation.

Clause 2 of the Bill stipulates that the changes proposed to the *Evidence (Audio and Audio Visual Links) Act 1998* would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. In the circumstances, the Committee makes no further comment.

4. Game and Feral Animal Legislation Amendment (Conservation Hunting) Bill 2025*

Date introduced	28 May 2025
House introduced	Legislative Council
Member with carriage	The Hon. Robert Borsak MLC
*Private Members Bill	

Purpose and description

4.1 The objects of the Bill are as follows:

- (a) to amend the *Game and Feral Animal Control Act 2002* (the **Act**) to:
 - (i) abolish the Game and Pest Management Advisory Board and replace it with the Conservation Hunting Authority (the **Authority**)
 - (ii) recognise and make provision for a right to hunt
 - (iii) abolish restricted game hunting licences and replace those licences with conservation hunting licences
 - (iv) provide that national park estate land must not be declared as land on which hunting is permitted
- (b) to amend the *Crown Land Management Act 2016* to establish the Crown land that is available for hunting and the mechanisms by which Crown land may be made available for hunting.

Background

4.2 The Bill proposes to amend the Act to modify the legal framework for hunting, and the *Crown Land Management Act 2016* (the **Crown Land Act**) to allow hunting on certain Crown land.

4.3 In his second reading speech, the Hon. Robert Borsak MLC said that:

The primary objectives of these amendments are to better enable conservation hunting on private and public lands to assist with control and management of introduced species of animals and to recognise hunting as a cultural activity by both Indigenous and non-Indigenous citizens of New South Wales that has a significant social and economic impact in the State.

4.4 Schedule 1 of the Bill proposes several amendments to the Act, including to:

- (a) provide for a right to hunt for cultural, recreational or invasive species management purposes, in accordance with other relevant laws
 - (b) require land managers when making a land management decision to consider hunting rights and whether hunting is feasible on the land
 - (c) dissolve the Game and Pest Management Advisory Board, establish the Authority, and outline the membership, procedures and functions of the Authority. The Authority's functions would include advising on game and feral animal management, representing licensed hunters, and promoting research into feral and game animals, including the benefits of hunting
 - (d) prohibit the declaration of national park estate land as being available for hunting.
- 4.5 Schedule 2 proposes to amend the Game and Feral Animal Control Regulation 2022 to insert references to general game hunting licences and conservation hunting licences.
- 4.6 Schedule 3 proposes to amend the Crown Land Act to enable hunting on designated areas of Crown land, including to:
- (a) prescribe areas of Crown land to be reserved for hunting and set criteria for identifying suitable land
 - (b) require hunters on Crown land to hold a relevant licence and have the Minister's permission
 - (c) require land managers to consider hunting when preparing or reviewing management plans for designated land
 - (d) set out a list of designated land available for hunting.
- 4.7 Schedule 4 proposes to amend the *Forestry Act 2012* to include promoting hunting in forestry areas as an objective and requiring consultation with the Authority on certain management plans. It also proposes to amend the *Weapons Prohibition Act 1998* to recognise conservation hunting as a genuine reason for possessing or using a weapon.

Issues considered by the Committee

Subordinate instrument not subject to parliamentary scrutiny

- 4.8 The Bill proposes to amend the Crown Land Act to allow hunting on certain Crown land. Under proposed section 9A.2, hunting would be permitted on certain crown land listed as 'designated land' in clause 1 of schedule 5A.
- 4.9 Proposed section 9A.4 would allow the Minister for Lands and Property to amend or replace Schedule 5A by order published on the NSW legislation website, after consulting with the Authority.

The Bill amends the *Crown Land Management Act 2016* to allow targeted conservation hunting on declared areas of Crown land, excluding national park estate land, by persons holding a conservation hunting licence. Under proposed schedule 5A, certain Crown lands would be designated for hunting. Proposed subsection 9A.4 would allow the Minister for Lands and Property (the Minister), after consulting with the Conservation Hunting Authority, to amend or substitute Schedule 5A by order published on the NSW legislation website. This means the Minister could designate Crown lands for hunting through subordinate legislation. The Committee considers that such decisions should be dealt with by amending the Act itself to ensure more robust parliamentary scrutiny. Proposed schedule 5A would list the areas of Crown land available for hunting, which means that key rules would be set out in external documents rather than in the legislation itself.

The Committee recognises that this approach may provide flexibility and allow updates to reflect changing regulatory advice. It also notes that the scheme is intended to support the efficient operation of conservation hunting.

However, the Committee generally prefers that substantive matters are set out in legislation where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect the public's ability to access Crown land freely and safely. For this reason, the Committee refers the matter to Parliament for consideration.

5. Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025

Date introduced	27 May 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Sophie Cotsis MP
Portfolio	Industrial Relations

Purpose and description

5.1 The objects of the Bill are as follows:

- (a) to amend the *Industrial Relations Act 1996* (the **Act**) for the following purposes:
 - (i) to authorise the Industrial Relations Commission (the **Commission**) to make orders to prevent and remedy bullying at work and sexual harassment in connection with work
 - (ii) to create civil penalties relating to bullying at work, sexual harassment in connection with work and other matters
 - (iii) to make further provision for and consolidate existing provisions dealing with proceedings for contraventions of civil penalty provisions
 - (iv) to make further provision for matters concerning principles of association and victimisation in relation to being a member or not being a member of an industrial organisation
 - (v) to make further provision for gender equality in the objects of the Act and during bargaining and disputes
 - (vi) to address other miscellaneous and consequential matters.
- (b) to make miscellaneous amendments to the *Work Health and Safety Act 2011* (the **WHS Act**).

5.2 The Bill also makes consequential amendments to the Industrial Relations (General) Regulation 2020 (the **Regulation**).

Background

5.3 The Bill proposes a range of amendments to strengthen workplace protections in NSW, particularly in relation to bullying, sexual harassment, and gender inequality.

- 5.4 In her second reading speech, the Hon. Sophie Cotsis MP, Minister for Industrial Relations, stated that the Bill:

...introduces critical measures, including establishing new anti-bullying and sexual harassment jurisdictions before the Industrial Relations Commission; clarification of the commission's powers during industrial disputes; and changes to the freedom from victimisation provisions. Regarding the Work Health and Safety Act, the bill also introduces measures to strengthen work health and safety protections for workers in New South Wales.

- 5.5 Schedule 1 amends the Act and introduces a new Chapter 3A, 'Bullying and sexual harassment'. This Chapter would clarify key definitions, including 'employee', 'bullying behaviour', and 'sexual harassment', and would authorise the Commission to conciliate, arbitrate, and make orders to prevent or remedy such conduct. It would also enable civil penalties for breaches of stop bullying orders (proposed section 144H) or sexual harassment orders (proposed section 144U). Applications for these orders could be made by the affected person or by an industrial organisation on their behalf.

- 5.6 The Chapter would also prevent dual proceedings under the Act and anti-discrimination legislation for the same conduct. However, it would disapply section 115 of the WHS Act, allowing concurrent proceedings under both Acts where appropriate.

- 5.7 Proposed sections 144N, 144O and 144Q would deal specifically with sexual harassment by:

- (a) establishing a civil penalty for sexual harassment of an employee or a person conducting a business or undertaking (proposed section 144N)
- (b) making others vicariously liable for the harasser unless they took all reasonable steps to prevent the behaviour (proposed section 144O)
- (c) limiting civil penalty applications to those lodged within 24 months of the alleged conduct (proposed section 144Q).

- 5.8 Other amendments in Schedule 1 would expand the Commission's powers to resolve disputes, particularly in work health and safety (**WHS**) matters and return-to-work processes. Schedule 1[14] to [17] would insert new sections 210, 213 and 213A to strengthen protections for freedom of association and freedom from victimisation.

- 5.9 Additional provisions would cover civil penalties, clarify the relationship between civil and criminal proceedings, and increase the small claims jurisdictional limit to \$100,000.

- 5.10 Schedule 2 makes consequential amendments to the Regulation to support the Bill's operation.

- 5.11 Schedule 3 seeks to amend the WHS Act. Key changes include:

- (a) requiring businesses to comply with a mandatory code of practice approved by the Minister for Work Health and Safety (proposed section 26A)
- (b) requiring businesses to notify the regulator when a provisional improvement notice is issued (proposed section 97A)
- (c) allowing parties to a dispute to notify the Commission, which can review decisions made by inspectors (proposed section 102F)
- (d) clarifying that WHS entry permit holders may take measurements, conduct tests, or make recordings (photos and videos) when investigating suspected breaches (proposed section 118)
- (e) allowing information sharing between the regulator and other agencies (proposed sections 271AA and 271AB).

Issues considered by the Committee

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Privacy and protection of personal information

- 5.12 The Bill seeks to insert section 271AA into the WHS Act, which would authorise the regulator to share information with certain agencies, including regulatory bodies.
- 5.13 Proposed subsection 271AA(2) defines the information that may be shared as including WHS information and 'information of a type prescribed by the regulations'.
- 5.14 Subsection 271AA(8) would allow information to be shared with a wide range of entities, including agencies from other jurisdictions and any person or body that exercises public official functions and is prescribed by the regulations.
- 5.15 The Bill would also expand the powers of authorised entry permit holders. Under proposed section 118 in Division 7A, permit holders would be expressly permitted to take measurements, conduct tests, and capture photos or videos when entering a workplace.

The Bill amends the *Work Health and Safety Act 2011* to enable the regulator and the Secretary of the Department of Customer Service (to be known as SafeWork NSW) to enter into information sharing arrangements with a broad range of agencies. Proposed subsection 271AA(2) would allow for the sharing of work health and safety information and information 'of a type prescribed by the regulations.' Proposed subsection 271AA(8) would allow information to be shared with a wide range of entities, including agencies from other jurisdictions and any person or body that exercises public official functions and is prescribed by the regulations. The Bill would also expand the powers of authorised entry permit holders. Under proposed section 118 in Division 7A, permit holders would be expressly permitted to take measurements, conduct tests, and capture photos or videos when entering a workplace. This may intrude on the privacy rights of individuals.

The Committee notes that the scope of the information that may be shared is broad and may be expanded through regulations. The types of agencies with which information may be shared is also not clearly defined. Further, the provisions would permit a relevant agency to require disclosure of personal information without notifying the individual or giving them an opportunity to object. This may infringe privacy rights, as personal information is protected under *the Privacy and Personal Information Protection Act 1998*.

The Committee also notes that the expanded evidence-gathering powers may impact privacy, particularly where photographs or videos capture sensitive personal information. In the absence of clear safeguards on how such information is used, stored, or retained, the Committee refers the matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Henry VIII clause

- 5.16 The Bill proposes to insert a regulation-making power into the Act by introducing section 400K. This section would replicate the effect of the existing section 357(7)(c), which would be amended by the new proposed section 357. It would allow regulations to apply criminal procedure provisions to civil proceedings, with or without modification.

The Bill seeks to insert section 400K into the *Industrial Relations Act 1996* to allow regulations to apply criminal procedure provisions to civil proceedings ‘with or without modification’.

This provision may therefore amount to a Henry VIII clause by allowing the Executive to amend the operation of the parent Act without reference to Parliament. The Committee generally considers Henry VIII clauses in bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee notes that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, as regulations made under the proposed provision may substantially modify the operation of provisions of the Act that impact personal rights to compensation, the Committee refers this issue to Parliament for consideration.

Commencement at proclamation

- 5.17 Clause 2 of the Bill provides that Schedules 1[1], [3], [6], [9], [22], [23], [29]–[31], [39] and [41], and Schedule 3 would commence on a day to be appointed by proclamation.

Schedules 1[1], [3], [6], [9], [22], [23], [29]–[31], [39] and [41], and Schedule 3 of the Bill would commence on a day to be appointed by proclamation.

The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee recognises that time may be needed for the Government to implement these changes and coordinate the reforms between the relevant agencies. For this reason, the Committee makes no further comment.

6. Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2025*

Date introduced	28 May 2025
House introduced	Legislative Council
Member with carriage	Ms Cate Faehrmann MLC
*Private Members Bill	

Purpose and description

- 6.1 The object of the Bill is to exclude users of medicinal cannabis from the application of the offences relating to driving while a prescribed illicit drug is present in a person's oral fluid, blood or urine.

Background

- 6.2 The Bill proposes to amend the *Road Transport Act 2013* (the **Act**) to create an exemption from section 111(1) which makes it an offence to drive with any prescribed illicit drug in a person's oral fluid, blood or urine.

- 6.3 Under the current law, the presence of any amount of delta-9-tetrahydrocannabinol (**THC**) in a driver's system constitutes an offence, even if the individual is not impaired or has a valid prescription. Proposed section 111(1A) would provide a defence to this offence if:

- (a) THC is the only prescribed illicit drug present
- (b) the drug was obtained and administered in accordance with the *Poisons and Therapeutic Goods Act 1966*, the *Medicines, Poisons and Therapeutic Goods Act 2022* or equivalent legislation in another State or Territory
- (c) the person holds a valid driver licence.

- 6.4 In her second reading speech, Ms Cate Faehrmann MLC stated that:

The object of the bill is to exclude users of medicinal cannabis from the application of the offences relating to driving while a prescribed illicit drug is present in a person's oral fluid, blood or urine.

- 6.5 Ms Faehrmann also noted that the Bill is based on a previous version introduced in November 2021, which was negatived in the Legislative Council in October 2022. Ms Faehrmann indicated that the current bill would address issues raised by the Standing

Committee on Law and Justice in its inquiry into the 2021 Bill,¹ as well as concerns raised by the Legislation Review Committee in Digest 38/57.² Ms Faehrmann explained:

I have amended this bill before us to take into consideration that particular issue that was raised during the inquiry. I have amended it to place a clear burden of proof on the defendant to prove that the only illicit drug in their system was THC that was obtained and administered in accordance with the *Poisons and Therapeutic Goods Act 1966*.

- 6.6 The Bill would require a statutory review of the amendment to be conducted within 12 months and at the end of a three-year period after commencement.
- 6.7 As noted above, the Legislation Review Committee reported on the Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021 in Digest No. 38/57. The current bill seeks to address the Committee's comments on the 2021 bill. The Committee's comments in this report are in line with its previous concerns regarding the creation of a defence to section 111 of the Act.

Issues considered by the Committee

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Reversal of the onus of proof

- 6.8 Proposed section 111(1A) creates an exception to the offence of driving with a prescribed illicit drug in a person's oral fluid, blood or urine. The exception would allow a person who uses medicinal cannabis to lawfully drive with THC in their system, so long as the THC is lawfully prescribed. THC is classified as a prescribed illicit drug under section 4 of the Act.
- 6.9 In her second reading speech, Ms Faehrmann stated that this defence:
- ...means that the duty lies with the charged driver to prove to the court that the THC in their system was medicinal cannabis prescribed to them by their doctor, if indeed it gets to court.
- 6.10 The offence, under section 111 of the Act, carries a maximum penalty of a \$2,200 fine (20 penalty units) for a first offence, or a \$3,300 fine (30 penalty units) for a second or subsequent offence. A driver may also be automatically disqualified from driving for six months under section 205 of the Act.

The Bill amends section 111 of the *Road Transport Act 2013* to create an exception to the offence of driving with a prescribed illicit drug in a person's oral fluid, blood or urine. It would allow a person to drive with delta-9-tetrahydrocannabinol (THC) in their system in certain circumstances.

¹ Standing Committee on Law and Justice, [Road Transport Amendment \(Medicinal Cannabis-Exemptions from Offences\) Bill 2021](#), report 81, Parliament of New South Wales, August 2022.

² Parliament of New South Wales, Legislation Review Committee, [Legislation Review Digest No 38 of 2021](#), 23 November 2021.

Under the proposed section 111(1A), an accused person would bear the burden of proving that the THC was lawfully prescribed and used. This reverses the usual onus of proof and may limit the right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights.³ The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to law.

However, the Committee recognises that the prosecution would still need to prove the essential elements of the offence beyond reasonable doubt, while the accused person would need to prove, on the balance of probabilities, that the THC was lawfully obtained and administered. The Committee acknowledges that the presumption of innocence is not absolute, and that reverse onus defences are not uncommon in criminal law. The Committee also notes that the proposed defence would provide an avenue for an accused person to prove that their conduct was lawful and therefore favours an individual's rights. In the circumstances, the Committee makes no further comment.

³ United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

7. Workers Compensation Legislation Amendment Bill 2025

Date introduced	27 May 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Sophie Cotsis MP
Portfolio	Customer Service and Digital Government

Purpose and description

7.1 The objects of the Bill are as follows:

- (a) to amend the *Workers Compensation Act 1987* (the **Act**) to:
 - (i) implement changes to liability and entitlements for psychological injuries
 - (ii) provide for the process of assessing the degree of permanent impairment
 - (iii) enable disputes about liability for a lump sum death benefit to be settled, subject to agreement by the Personal Injury Commission
 - (iv) enable regulations to be made to expand the classes of claims which are eligible for commutations, subject to approval by the Personal Injury Commission in a particular case
- (b) to make miscellaneous amendments to the *Workplace Injury Management and Workers Compensation Act 1998* (the **Workplace Injury Management and Workers Compensation Act**), the *Personal Injury Commission Act 2020* (the **Personal Injury Commission Act**), the *State Insurance and Care Governance Act 2015* and other legislation.

Background

7.2 The Bill proposes significant amendments to the Act and other related legislation to modify how psychological injury compensation operates in NSW and to clarify workers' entitlements.

7.3 In her second reading speech, the Hon. Sophie Cotsis MP, Minister for Industrial Relations, said the Bill would introduce 'a new, modernised legislative framework to deal with psychological injury in New South Wales workers compensation schemes.'

7.4 The Minister outlined the key amendments proposed by the Bill:

- (a) introducing new definitions and objective tests to determine whether a psychological injury is compensable

- (b) establishing an accelerated process to assess claims involving excessive work demands, bullying and racial and sexual harassment
- (c) applying a more objective standard to the employer defence for work-related psychological injuries
- (d) creating a new role for the NSW Industrial Relations Commission
- (e) ensuring workers with severe psychological injuries continue to receive lifetime medical treatment and weekly payments until retirement
- (f) limiting weekly payments to a maximum of 130 weeks for all other workers with a primary psychological injury
- (g) introducing a stepped increase to the permanent impairment threshold required to access ongoing weekly payments, work injury damages, permanent impairment lump sums and commutations.

Issues considered by the Committee

Trespasses unduly on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Procedural fairness in compensation claims

- 7.5 The Bill proposes to amend the Act by introducing a new Part 6, which sets out how permanent impairment is to be assessed. Proposed section 153N provides for the powers of an assessor during the principal assessment. These powers would include the ability to request medical records, test results, and any other information the assessor considers necessary for assessing the degree of permanent impairment.
- 7.6 Subsection 153N(2) provides for the suspension of a worker's right to recover compensation and weekly payments if they refuse to undergo an examination by the assessor or obstruct the examination.

The Bill amends the *Workers Compensation Act 1987* to set out a process for determining a claimant's degree of permanent impairment. Proposed section 153N sets out the powers of an assessor during the principal assessment, including the authority to require the production of medical records. If a person refuses to undergo an examination by the assessor or obstructs the examination, their right to recover compensation and receive weekly payments is suspended until the examination takes place. This could impact a person's privacy and procedural rights in relation to their compensation claim.

The Bill does not provide for an avenue to review the suspension of a person's compensation or provide a justifiable basis on which a person could refuse to undergo an examination or obstruct an examination. Further, 'obstruct' is not defined, which could lead to the arbitrary denial of compensation to individuals with otherwise legitimate claims.

The Committee acknowledges that the suspension of compensation and weekly payments is intended to encourage compliance with the principal assessment process. This is intended to support the efficient

administration of the workers compensation scheme and the timely resolution of claims. However, without a right of review or safeguards for affected individuals, the suspension of compensation may operate punitively. For this reason, the Committee refers this matter to Parliament for consideration.

Inappropriately delegates legislative powers: s 8A(1)(b)(iv) of the LRA

Wide regulation making powers

7.7 The Bill proposes to provide for wide regulation making powers by allowing several matters to be set out in regulations, including:

- (a) applications made by the State Insurance Regulatory Authority (the **Authority**) for a principal assessment in accordance with regulations (proposed section 153K(2))
- (b) circumstances in which a further principal assessment may be made (proposed section 153Q)
- (c) cases of liability for injury that can be commuted to a lump sum (proposed section 87EA(2)(a))
- (d) matters relating to primary psychological injuries, including circumstances an insurer must consider and the evidence a worker must provide in relation to a claim (proposed section 8Q)
- (e) procedures for insurers to follow when making work capacity decisions and decisions about pre-injury average weekly earnings (proposed section 44BB)
- (f) matters to be considered by the Independent Review Officer in assessing funding for legal and associated costs (proposed section 9A(2) of the Personal Injury Commission Act).

The Bill seeks to amend the *Workers Compensation Act 1987* and the *Personal Injury Commission Act 2020* to defer a number of significant matters to regulations. These include applications for principal assessments of permanent impairment, circumstances for further principal assessments, and procedures for insurers when making decisions about work capacity and pre-injury average weekly earnings.

The Committee generally prefers substantive matters to be set out in principal legislation, rather than in regulations, to facilitate an appropriate level of parliamentary oversight.

However, the Committee recognises that the provisions may be intended to build more flexibility into the regulatory framework and to facilitate the efficient operation of the workers compensation scheme. The Committee also acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.

Henry VIII clause

- 7.8 The Bill proposes to insert a regulation-making power into the Workplace Injury Management and Workers Compensation Act to allow regulations to modify how certain provisions of that Act apply. Proposed section 264A would allow regulations to modify the application of Divisions 1 and 2, which relate to primary psychological injuries.

The Bill inserts section 264A into the *Workplace Injury Management and Workers Compensation Act 1998* to allow regulations to provide for the modification of the application of Divisions 1 and 2 of the Act. These provisions relate to claims made for primary psychological injury.

This provision may therefore amount to a Henry VIII clause by allowing the Executive to amend the operation of the parent Act without reference to Parliament. The Committee generally considers Henry VIII clauses in bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee notes that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, as regulations made under the proposed provision may substantially modify the operation of provisions of the Act that impact personal rights to compensation, the Committee refers this issue to Parliament for consideration.

Commencement by proclamation

- 7.9 Section 2 provides that the Bill commences on a day to be appointed by proclamation.

The Bill would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee recognises that the Bill establishes new administrative arrangements regarding the workers compensation scheme in NSW. Time may be needed for the Government to implement these changes and coordinate the reforms between the relevant agencies. For this reason, the Committee makes no further comment.

Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA

Incorporating significant matters in external guidelines not subject to disallowance

- 7.10 The Bill proposes to make a number of amendments to the Act and the Workplace Injury Management and Workers Compensation Act to broaden the matters that may be included in the Workers Compensation Guidelines (**Guidelines**). Throughout the Bill, various provisions refer to the Guidelines and specify the matters they may address or incorporate.

7.11 The Bill proposes to enable the Guidelines to address the following key matters:

- (a) the management of claims related to an agreement about disputed death benefits lodged with the Commission (proposed section 32AC(8) of the Act)
- (b) the process for assessing permanent impairment (proposed section 153B(1) of the Act)
- (c) how deductions are determined for previous injuries or pre-existing conditions (proposed section 153C(4) of the Act)
- (d) factors to be considered in assessing permanent impairment (proposed section 153K(3)(c) of the Act)
- (e) criteria for determining assessors of permanent impairment (proposed section 153M(1) of the Act)
- (f) matters to be provided by an insurer about a person's medical record for a principal assessment (proposed section 153N(3) of the Act)
- (g) procedures and requirements for disputing claims and reviewing decisions (proposed section 280AE(7) of the Workplace Injury Management and Workers Compensation Act).

The Bill amends the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* to specify matters that can be incorporated into the Workers Compensation Guidelines (the Guidelines). The Guidelines are made by the State Insurance Regulatory Authority (the Authority) and published in the NSW Government Gazette. Matters provided for by the Guidelines would include: the management of compensation claims, the process for assessing permanent impairment, and the determination of deductions for previous injuries. This means that significant matters would be set out in external material, rather than in legislation.

The Committee understands that the incorporation of matters into the Guidelines may provide greater flexibility and allow updates to reflect changing regulatory advice and practices. It acknowledges that the Guidelines are intended to support the efficient operation of the workers compensation scheme and enable the Authority to exercise its statutory functions.

However, there does not appear to be any requirement for the Guidelines, or any updates to them, to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in legislation where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect individual rights and liberties. For this reason, the Committee refers the matter to Parliament for consideration.



Part Two – Regulations with comment

1. District Court Criminal Practice Note 29 Management of Criminal Proceedings listed in the Downing Centre

Date tabled	LA: 6 May 2025 LC: 6 May 2025
Disallowance date	LA: 27 June 2025 LC: 9 September 2025
Minister responsible	The Hon. Michael Daley MP
Portfolio	Attorney General

Purpose and description

- 1.1 The Practice Note applies to the case management of proceedings in the Downing Centre, excluding proceedings in the Walama List and those listed when the District Court sits on a circuit basis.
- 1.2 The Practice Note was published on 28 March 2025 and came into effect on 31 March 2025.
- 1.3 It replaces District Court Criminal Practice Note 18, District Court Criminal Practice Note 20, and District Court Criminal Practice Note 21. In particular, it provides revised directions for various court matters, including changes to filing deadlines and timeframes. It also provides two new forms for parties to complete prior to particular court appearances.

Issues considered by the Committee

Trespasses unduly on personal rights and liberties: s 9(1)(b)(i) of the LRA

Right to procedural fairness

- 1.4 The Practice Note changes several filing deadlines for parties at various stages of proceedings. Clause 8 requires that the Prosecution must file and serve the Indictment, Crown Case Statement and Brief Index (collectively known as the Prosecution's indictment bundle) five days before the arraignment. This differs from Practice Note 18, which stipulated that the Prosecution's indictment bundle be filed and served 10 days before the arraignment.
- 1.5 An arraignment is the court event in which the accused enters a plea. Based on the plea, the court then sets dates for future proceedings. It is important that the accused

and their lawyers, if represented, have a clear understanding of the prosecution's case before this event. The contents of the Prosecution's indictment bundle can affect how the accused chooses to plead.

- 1.6 While section 61 of the *Criminal Procedure Act 1986* requires the early service of a brief of evidence during committal proceedings, the later filing and service of the indictment bundle at the arraignment stage remains critical.
- 1.7 Section 22(1)(b) of the *Crimes (Sentencing Procedure) Act 1999* provides that when sentencing an offender who has pleaded guilty, the court must consider when the plea was entered or indicated. This means that pleading guilty at the arraignment, rather than later, can positively affect sentencing.

The District Court Criminal Practice Note 29 – Management of Criminal Proceedings listed in the Downing Centre changes several filing deadlines for parties at various stages of proceedings. Clause 8 shortens the timeframe for the Prosecution to file and serve the Indictment, Brief Index and Crown Case Statement. As a result, the accused, or their lawyers, if represented, receive the indictment bundle five days later than previously required under the District Court Criminal Practice Note 18.

The shorter timeframe gives the accused less time to review the Prosecution's case and decide on their plea. While certain materials, including the brief of evidence, are served at earlier stages of proceedings, the timely filing and service of the indictment bundle at later stages remains critical to upholding the accused's right to procedural fairness. The plea entered at the arraignment is particularly important for sentencing, as an early guilty plea may result in a discounted sentence.

The Committee notes that the accused has the right to know and understand the Crown case against them in order to respond to allegations and make an informed decision about their plea. Having less time to consider the material and case against them undermines this right and impacts their right to procedural fairness. For these reasons, the Committee refers this matter to Parliament for consideration.



Part Three – Regulations without comment

Regulations without comment

Note: at the time of writing, the Committee makes no further comment about the following regulations.

1. [Conveyancing \(General\) Amendment \(Telstra Limited\) Regulation 2025](#)

The object of the Regulation is to prescribe Telstra Limited (ACN 086 174 781) as a corporation in whose favour an easement without a dominant tenement may be created if the easement is for the purpose of, or incidental to, the supply of a utility service to the public.

The Regulation does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

2. [District Court Criminal Practice Note 31 \(Management of Proceedings under the Child Sexual Offence Evidence Program\)](#)

The Practice Note commenced on 31 March 2025 and replaces District Court Criminal Practice Note 28 (Child Sexual Offence Evidence Practice Note). It applies to proceedings under Division 1A of the *Criminal Procedure Act 1986*, which deals with the pre-recording of evidence by witnesses under the age of 18.

The Practice Note sets out procedures for child sexual offence cases, including appointing a Witness Intermediary for child witnesses under the age of 16, holding a ground rules hearing, and pre-recording evidence from child witnesses.

The Practice Note does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

3. [Local Government \(General\) Amendment \(Minimum Amounts of Rate\) Regulation 2025](#)

The object of the Regulation is to increase the limit on the minimum amount of ordinary council rates under the *Local Government Act 1993* (the **Act**), section 548(3)(a) from \$617 to \$639.

The Regulation is made under the Act and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

4. [Notice of Reservation of a Nature Reserve \(2025-138-2\)](#)

The Notice is made under the *National Parks and Wildlife Act 1974*. It reserves certain land within the district of Port Macquarie as part of the Queens Lake Nature Reserve.

The Notice does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

5. [Notice of Reservation of a Nature Reserve \(2025-138-3\)](#)

The Notice is made under the *National Parks and Wildlife Act 1974*. It reserves certain land within the district of Grafton as part of the Chambigne Nature Reserve.

The Notice does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

6. NSW Admission Board First Amendment Rule 2025

The Rule commenced on 24 April 2025 and is made under the *Legal Profession Uniform Law Application Act 2014*.

The object of the Rule is to amend the NSW Admission Board Rules 2015 to substitute the term 'Presiding Member' for 'President', update the current subjects examined by the Board, and make some other miscellaneous amendments.

The Rule does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

7. NSW Trustee and Guardian Amendment (Fees) Regulation 2025

The object of the Regulation is to amend the NSW Trustee and Guardian Regulation 2017 to make further provision about the fees payable to the NSW Trustee, including amendments to establish a mechanism for the indexation of the fees.

The Regulation is made under the *NSW Trustee and Guardian Act 2009* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

8. Public Health Amendment Regulation 2025

The object of the Regulation is to amend the Public Health Regulation 2022 as follows:

- (a) to remove a now redundant reference to the information a medical practitioner is required to give the Secretary of the Ministry of Health about patients diagnosed with silicosis, consequential on the making of the Public Health Amendment (Scheduled Medical Conditions and Notifiable Diseases) Order (No 2) 2024, which removed silicosis as a scheduled medical condition
- (b) to include unregistered health practitioner prohibition orders made in the Australian Capital Territory or Tasmania in the list of corresponding interstate prohibition orders
- (c) to increase fees for certain matters
- (d) to remove certain offences under the *Public Health Act 2010* (the **Act**) relating to the COVID-19 pandemic from the list of offences for which a penalty notice may be issued.

The Regulation is made under the Act and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

9. The Chartered Accountants Australia and New Zealand Professional Standards Scheme

The Chartered Accountants Australia and New Zealand Professional Standards Scheme (the **Scheme**) commences on 13 July 2025. It remains in force for 5 years and is made under the *Professional Standards Act 1994*. It replaces the previous Scheme which commenced on 13 July 2019, when it was gazetted.

The Scheme is made by Chartered Accountants Australia and New Zealand for the purposes of limiting occupational liability for members who hold an Australian Certificate of Public Practice, Affiliate Membership or Practice Entity Membership.

The Scheme does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

10. [The Victorian Bar Professional Standards Scheme](#)

The Scheme commences on 1 July 2025 and is made under the *Professional Standards Act 2003* (Vic).

The Scheme facilitates improvement in the standards of service provided by scheme members and limits the occupational liability of those members. It is intended to have effect in NSW to the extent it is consistent with NSW legislation.

The Scheme does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

11. [The Western Australian Bar Association Professional Standards Scheme 2025](#)

The Scheme commences on 1 July 2025 and is made under the *Professional Standards Act 1997* (WA).

The Scheme applies to members of the Western Australian Bar Association who are based in and practise as barristers in Western Australia and also operates in NSW to the extent it is consistent with NSW legislation.

The Scheme does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.



Appendices

Appendix One – Functions of the Committee

The functions of the Legislation Review Committee are set out in the *Legislation Review Act 1987*:

8A Functions with respect to Bills

(1) The functions of the Committee with respect to Bills are:

- (a) to consider any Bill introduced into Parliament, and
- (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
 - (i) trespasses unduly on personal rights and liberties, or
 - (ii) makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, or
 - (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions, or
 - (iv) inappropriately delegates legislative powers, or
 - (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

(2) A House of Parliament may pass a Bill whether or not the Committee has reported on the Bill, but the Committee is not precluded from making such a report because the Bill has been so passed or has become an Act.

9 Functions with respect to regulations

(1) The functions of the Committee with respect to regulations are:

- (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament,
- (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
 - (i) that the regulation trespasses unduly on personal rights and liberties,
 - (ii) that the regulation may have an adverse impact on the business community,
 - (iii) that the regulation may not have been within the general objects of the legislation under which it was made,

- (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made,
 - (v) that the objective of the regulation could have been achieved by alternative and more effective means,
 - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
 - (vii) that the form or intention of the regulation calls for elucidation, or
 - (viii) that any of the requirements of sections 4, 5 and 6 of the [Subordinate Legislation Act 1989](#), or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.
- (1A) The Committee is not precluded from exercising its functions under subsection (1) in relation to a regulation after it has ceased to be subject to disallowance if, while it is subject to disallowance, the Committee resolves to review and report to Parliament on the regulation.
- (2) Further functions of the Committee are:
- (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
 - (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.
- (3) The functions of the Committee with respect to regulations do not include an examination of, inquiry into or report on a matter of Government policy, except in so far as such an examination may be necessary to ascertain whether any regulations implement Government policy or the matter has been specifically referred to the Committee under subsection (2) (b) by a Minister of the Crown.

Appendix Two – Unconfirmed extracts of minutes

Minutes of Meeting no. 32

TIME & DATE: 3:28 PM, 2 JUNE 2025

**LOCATION: ROOM 1136, AND VIA
VIDEOCONFERENCE AND
TELECONFERENCE**

MEMBERS PRESENT

Ms Voltz (Chair), Ms Stuart (Deputy Chair) (via videoconference), Ms Davis (via videoconference), Mr Hagarty, Ms Higginson, Mr Layzell, Ms Munro (via teleconference) and Mr Murphy (via videoconference).

OFFICERS PRESENT

Rohan Tyler, Mengyuan Chen, Alex Read, Charlie King, Joan Douce, Natasha Moir, Elizabeth Hawken and Nicolle Gill.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mr Murphy: That the minutes of the meeting of 26 May 2025 be confirmed.

2. ***

3. Consideration of bills with comment for Legislation Review Digest 31/58

Discussion ensued.

Resolved, on the motion of Ms Stuart: That the Committee adopts the following draft reports *in globo*:

- a) Conveyancing and Real Property Amendment Bill 2025
- b) Evidence (Audio and Audio Visual Links) Amendment (Local Court Bail Division) Bill 2025
- c) Industrial Relations and Other Legislation Amendment (Workplace Protections) Bill 2025
- d) Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2025
- e) Workers Compensation Legislation Amendment Bill 2025.

Resolved, on the motion of Ms Higginson: That the Committee adopts the following draft bill report, as amended, with the following issue to be inserted at page 30 of Legislation Review Digest No. 31/58, under the heading 'Insufficiently subjects the exercise of legislative power to parliamentary scrutiny: s 8A(1)(b)(v) of the LRA':

a) Game and Feral Animal Legislation Amendment (Conservation Hunting) Bill 2025

- 1.8 The Bill proposes to amend the Crown Land Act to allow hunting on certain Crown land. Under proposed section 9A.2, hunting would be permitted on certain crown land listed as 'designated land' in clause 1 of schedule 5A.
- 1.9 Proposed section 9A.4 would allow the Minister for Lands and Property to amend or replace Schedule 5A by order published on the NSW legislation website, after consulting with the Authority.

The Bill amends the *Crown Land Management Act 2016* to allow targeted conservation hunting on declared areas of Crown land, excluding national park estate land, by persons holding a conservation hunting licence. Under proposed schedule 5A, certain Crown lands would be designated for hunting. Proposed subsection 9A.4 would allow the Minister for Lands and Property (the Minister), after consulting with the Conservation Hunting Authority, to amend or substitute Schedule 5A by order published on the NSW legislation website. This means the Minister could designate Crown lands for hunting through subordinate legislation. The Committee considers that such decisions should be dealt with by amending the Act itself to ensure more robust parliamentary scrutiny. Proposed schedule 5A would list the areas of Crown land available for hunting, which means that key rules would be set out in external documents rather than in the legislation itself.

The Committee recognises that this approach may provide flexibility and allow updates to reflect changing regulatory advice. It also notes that the scheme is intended to support the efficient operation of conservation hunting.

However, the Committee generally prefers that substantive matters are set out in legislation where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect the public's ability to access Crown land freely and safely. For this reason, the Committee refers the matter to Parliament for consideration.

4. Consideration of bills without comment for Legislation Review Digest 31/58

Resolved, on the motion of Ms Stuart: That the Committee adopts the following draft report:

- a) Children's Guardian Amendment Bill 2025

5. Consideration of regulations with comment for Legislation Review Digest 31/58

Resolved, on the motion of Ms Higginson: That the Committee adopts the following draft report:

- a) District Court Criminal Practice Note 29 Management of Criminal Proceedings listed in the Downing Centre.

6. Regulations without comment for Legislation Review Digest 31/58

Resolved, on the motion of Mr Layzell: That the Committee adopts the regulations without comment as Part Three to Digest No. 31/58.

7. Legislation Review Digest 31/58

Resolved, on the motion of Ms Stuart:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts the Legislation Review Digest No. 31/58, as amended, and that it be signed by the Chair and presented to the House.

8. Regulations to be reviewed

The Committee noted the table listing the status of regulations and statutory instruments to be reviewed.

9. Next Meeting

The meeting adjourned at 3:28 pm until 23 June 2025.