

Legislation Review Committee



PARLIAMENT OF  
NEW SOUTH WALES

# Legislation Review Digest



Digest No. 34/58 – 9 September 2025

New South Wales Parliamentary Library cataloguing-in-publication data:



A catalogue record for this  
book is available from the  
National Library of Australia

ISSN: 1448-6954

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

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# 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. Child Protection \(Working with Children\) and Other Legislation Amendment Bill 2025](#)

Issues identified	Conclusion of Committee
Removal of external review avenue	No further comment
Commencement by proclamation	No further comment
Uncertainty – Amendment of amending Act	No further comment

### [2. Crimes Amendment \(Deepfake Sexual Material\) Bill 2025\\*](#)

Issues identified	Conclusion of Committee
Commencement by proclamation	No further comment

### [3. Crimes Amendment \(Intimate Image and Audio Material\) Bill 2025](#)

Issues identified	Conclusion of Committee
Commencement by proclamation	No further comment

### [4. Crimes and Roads Legislation Amendment \(Obstruction Offences Repeals\) Bill 2025\\*](#)

No issues identified

### [5. Crimes Legislation Amendment \(War Memorial Offences\) Bill 2025](#)

No issues identified

### [6. Electricity Infrastructure Investment Amendment \(Priority Network Projects\) Bill 2025](#)

Issues identified	Conclusion of Committee
Absolute liability offence	No further comment

### [7. Environmental Legislation Amendment Bill 2025](#)

Issues identified	Conclusion of Committee
Commencement by proclamation	No further comment
Retrospective application of offence provisions	No further comment

### [8. Kosciuszko Wild Horse Heritage Repeal Bill 2025\\*](#)

No issues identified

### [9. Parliamentary Remuneration Amendment \(Basic Salary\) Bill 2025](#)

No issues identified

### [10. Public Health \(Tobacco\) Amendment \(Illicit Tobacco\) Bill 2025\\*](#)

Issues identified	Conclusion of Committee
Introduction of custodial penalties for existing absolute liability offences	Referred

New strict liability offences	No further comment
Wide regulatory powers – short-term closure orders	No further comment
Reversal of the onus of proof and the right to the presumption of innocence	No further comment

### 11. Summary Offences Amendment (Limitation on Offensive Language) Bill 2025\*

No issues identified

### 12. Tobacco Legislation (Closure Orders) Amendment Bill 2025

Issues identified	Conclusion of Committee
Absolute and strict liability offence regime	Referred
Vicarious liability – offences with custodial penalties	Referred
Wide regulatory powers impacting personal rights and liberties – short-term closure orders	Referred
Wide regulatory powers impacting privilege from self-incrimination	Referred
Procedural fairness – no requirement to provide reasons - criminal intelligence	No further comment
Lack of clarity – class of persons who may provide certificate of evidence	Referred
Commencement by proclamation	Referred
Retrospective enactment of legislation	Referred

### 13. Victims Rights and Victims of Crime Commissioner Bill 2025

Issues identified	Conclusion of Committee
Information sharing practices impacting vulnerable individuals' right to privacy	Referred
Wide regulation making powers including retrospective regulations	No further comment
Commencement by proclamation	No further comment

### 14. Workers Compensation Amendment (Firefighters' Diseases) Bill 2025\*

No issues identified

### 15. Workers Compensation Amendment (Reform and Modernisation) Bill 2025

Issues 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

# Summary of Conclusions

## PART ONE – BILLS

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### 1. Child Protection (Working with Children) and Other Legislation Amendment Bill 2025

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#### **Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions: s 8A(1)(b)(iii) of the LRA**

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##### *Removal of external review avenue*

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The Bill seeks to amend a number of pieces of legislation to remove the avenue for external review of decisions regarding Working with Children Checks and NDIS Worker Checks. In particular, the Bill proposes to replace Part 4 of the *Child Protection (Working with Children) Act 2012*, which would establish the Children's Guardian as the sole decision making and review body in respect of Working with Children Checks. The change would also remove the current avenue for administrative review of a Children's Guardian clearance decision by the NSW Civil and Administrative Tribunal (NCAT). In addition to this, the Bill seeks to remove clause 17 from Schedule 3 of the *Civil and Administrative Tribunal Act 2013*, which allows for certain decisions under both Acts to be appealed directly to the Supreme Court.

By removing the existing avenue for review of a clearance decision by NCAT, the Bill would limit the administrative review of decisions made in relation to both types of clearance checks. Similarly, by removing the provision for direct appeals to the Supreme Court, the Bill would limit the capacity for judicial review of these decisions. The Committee notes that the removal of these grounds for review may limit procedural fairness and make a claimant's rights or obligations unduly dependent upon a decision that cannot be independently reviewed.

However, in this case the Committee acknowledges that the amendments are intended to protect children and other vulnerable persons by reducing the risk of previously disqualified persons being granted a Working with Children Check clearance. The Committee also notes that the Bill would create an internal review process so that decisions would still be reviewable by the Children's Guardian, which has specialised knowledge regarding child protection and safety. Noting the strong policy rationale for the amendments, the Committee makes no further comment.

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

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##### *Commencement by proclamation*

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The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges that a flexible start date may be appropriate where time is needed for the Children's Guardian, the NSW Civil and Administrative Tribunal and other relevant bodies to implement necessary administrative arrangements. In the circumstances, the Committee makes no further comment.

### *Uncertainty – Amendment of amending Act*

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The Bill proposes amendments to the *Child Protection (Offenders Registration) Amendment Act 2024*, which has not yet commenced at the time of writing.

The proposed amendments may create some uncertainty about when the relevant provisions would take effect, and may make it difficult for individuals to ascertain their procedural rights. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.

However, in this case, the proposed amendments are minor procedural clarifications and do not impact existing obligations. For these reasons, the Committee makes no further comment.

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## **2. Crimes Amendment (Deepfake Sexual Material) Bill 2025\***

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

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#### *Commencement by proclamation*

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The Bill would commence 6 months after the date of assent, or, if earlier, 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. This is particularly significant where the provisions commencing by proclamation would affect individual rights or obligations.

In this case, the Bill would expand the scope of existing offences that carry a maximum penalty of up to three years' imprisonment. However, the Committee acknowledges that the proposed commencement by proclamation may be intended to allow administrative arrangements to be made, as well as education and training for justice agencies. The Committee also acknowledges that, if no proclamation is made, the provisions would commence 6 months after the date of assent, which provides a measure of certainty for affected persons. In the circumstances, the Committee makes no further comment.

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## **3. Crimes Amendment (Intimate Image and Audio Material) Bill 2025**

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

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#### *Commencement by proclamation*

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The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. This is particularly significant where the provisions commencing by proclamation would affect individual rights or obligations.

In this case, the Bill would create new offences that would carry a maximum penalty of up to three years' imprisonment. However, the Committee acknowledges that the proposed commencement by proclamation is intended to allow necessary systems updates to be made, as well as education and training for justice agencies. In the circumstances, the Committee makes no further comment.

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## **4. Crimes and Roads Legislation Amendment (Obstruction Offences Repeals) Bill 2025\***

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

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## 5. Crimes Legislation Amendment (War Memorial Offences) Bill 2025

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

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## 6. Electricity Infrastructure Investment Amendment (Priority Network Projects) Bill 2025

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

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#### *Absolute liability offence*

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The Bill proposes to remove the words 'without reasonable excuse' from the offence in subsection 35(1) of the *Electricity Infrastructure Investment Act 2020*. Under section 35, it is an offence for a network operator to fail to comply with a direction from the Minister without reasonable excuse. By removing the potential defence of 'reasonable excuse', the Bill would make this offence an absolute liability offence.

The Committee generally comments on absolute liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability. However, the Committee acknowledges that absolute liability offences are not uncommon in regulatory settings to encourage compliance. Further, the offence does not include a custodial penalty and is unlikely to apply to individuals.

The Committee also notes that the Bill has passed both Houses of Parliament. In the circumstances, the Committee makes no further comment.

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## 7. Environmental Legislation Amendment Bill 2025

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

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#### *Commencement by proclamation*

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Other than schedules 1 and 9[47], the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions, particularly where the provisions would affect individual rights or obligations.

In this case, the Bill seeks to introduce executive liability for a number of existing offences, which would make individual directors liable for offences committed by corporations. However, the Committee notes that the maximum penalty for these offences is monetary, not custodial, and that the offences are not new offences. It also acknowledges the practical reasons for allowing a flexible start date. In these circumstances, the Committee makes no further comment.

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#### *Retrospective application of offence provisions*

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The Bill proposes to amend the *Protection of the Environment Operations Act 1997* to expand the scope of the repeat waste offence in section 144AB. A person commits an offence under section 144AB if they are convicted of a waste offence and then commit another waste offence within five years of the initial conviction. The repeat waste offence in section 144AB is subject to a maximum penalty of \$500,000 or two years' imprisonment, or both.



The Bill also seeks to insert savings and transitional provisions that provide that the inclusion of the new offence under section 144AB extends to offences committed before the relevant clause of the Bill commences. This could allow the retrospective application of the offence provision, as previous convictions could constitute a repeat offence before the relevant provision has commenced. The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time. This is particularly important where the provisions may affect individual rights or obligations.

However, the Committee acknowledges the policy rationale of expanding the offence to address non-compliance with the regulatory regime by capturing existing convictions under the Act. It also recognises that the retrospective application does not create additional offences, but links previous convictions to potential future convictions. For these reasons, the Committee makes no further comment.

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## **8. Kosciuszko Wild Horse Heritage Repeal Bill 2025\***

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

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## **9. Parliamentary Remuneration Amendment (Basic Salary) Bill 2025**

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

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## **10. Public Health (Tobacco) Amendment (Illicit Tobacco) Bill 2025\***

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

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#### *Introduction of custodial penalties for existing absolute liability offences*

---

The Bill proposes to increase the penalties for existing absolute liability offences under the *Public Health (Tobacco) Act 2008*. These offences, under sections 6, 7 and 8, relate to the selling of cigarettes not in the manufacturer's package, without health warnings, or with prohibited words on the package. The new proposed maximum penalties include both monetary and custodial penalties, with a maximum of 7 years' imprisonment for an individual for a second or subsequent offence.

The Committee notes that the relevant offences under the Act are absolute liability offences. The Committee generally comments on absolute liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.

The Committee acknowledges that absolute liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would now carry a custodial penalty, and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. There would also be no defence available for these offences. For these reasons, the Committee refers this matter to Parliament for its consideration.

#### *New strict liability offences*

---

The Bill seeks to introduce a new offence into the *Public Health (Tobacco) Act 2008* under proposed section 50E. This offence prohibits a person from selling goods at a premises or providing services at the premises while a closure order is in effect.

The Committee generally comments on strict liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.

However, the Committee acknowledges that this proposed offence is intended to restrict the sale of illicit tobacco and combat underground and illegal tobacco networks. It also acknowledges that strict liability offences are not uncommon in regulatory frameworks to encourage compliance and fair practices. Further, the Committee notes that the offences would carry monetary penalties rather than custodial penalties. For these reasons, the Committee makes no further comment.

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#### *Wide regulatory powers – short-term closure orders*

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The Bill seeks to insert proposed section 50B into the *Public Health (Tobacco) Act 2008*, which would give the Secretary the discretionary power to order the short-term closure of a premises.

In doing so, the Bill would grant a wide regulatory power to the Secretary to close a premises for a period of time (28 days). An order of this kind is one that may significantly affect an individual's business and livelihood.

However, the Committee notes the proposed review mechanism in section 50C, which would allow an individual impacted by a short-term closure order to apply to the Secretary for a review of the decision. This acts as a safeguard on how the powers under proposed section 50B may be exercised. For this reason, the Committee makes no further comment.

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#### *Reversal of the onus of proof and the right to the presumption of innocence*

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The Bill proposes to insert section 50I into the *Public Health (Tobacco) Act 2008*. This section would introduce a new offence prohibiting an owner or a person with management or control of a premises to sell illicit tobacco or vapes on the premises or operate without a tobacco licence. Subsection 50I(2) provides that the accused would bear the onus of proving that they did not have the knowledge of the sale if they meet certain criteria.

This would reverse the onus of proof by requiring the accused to prove any matter of their innocence. In regard to criminal actions, a reversed onus may undermine a person's 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 proved guilty according to law.

However, the Committee acknowledges that the presumption of innocence is not absolute. In this case, the Committee also notes that the offence would carry a monetary rather than a custodial penalty. For these reasons, the Committee makes no further comment.

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## **11. Summary Offences Amendment (Limitation on Offensive Language) Bill 2025\***

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

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## 12. Tobacco Legislation (Closure Orders) Amendment Bill 2025

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

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#### *Absolute and strict liability offence regime*

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The Bill proposes to insert a number of new absolute and strict liability offences into the *Public Health (Tobacco) Act 2008*, some of which would carry custodial penalties.

Proposed section 6A would create a new absolute liability offence by prohibiting a person from possessing a commercial quantity of illicit tobacco. This offence would carry a maximum penalty of up to 7 years' imprisonment. Proposed section 50K would also create a new offence prohibiting a person from selling products from closed premises. This offence would carry a maximum penalty of up to 12 months' imprisonment for a second and subsequent offence. Under subsection 50K(3), a defence of 'reasonable excuse' would be available, making it a strict liability offence.

Additionally, the Bill would introduce custodial penalties for existing absolute liability offences under the Act. These offences, under sections 6 and 7, relate to the selling of cigarettes not in the manufacturer's package, or without health warnings on the package. The new proposed maximum penalties include both monetary and custodial penalties of up to 7 years' imprisonment.

The Committee generally comments on absolute and strict liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability. The Committee acknowledges that absolute and strict liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would carry a custodial penalty and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. There would also be no defence available for the absolute liability offences. For these reasons, the Committee refers the matter to Parliament for its consideration.

#### *Vicarious liability – offences with custodial penalties*

---

Proposed section 53A stipulates that, should an agent of a licence holder commit an offence under the *Public Health (Tobacco) Act 2008* or regulations, the licence holder is guilty of the offence and subject to the penalty specified for the contravention. The penalties prescribed under the Act include both monetary and custodial penalties.

The Committee notes that vicarious liability offences are not uncommon in regulatory settings to encourage compliance, and that the Bill is intended to deter illicit tobacco trading and reflect community expectations.

However, the Committee generally comments on vicarious liability offences as they depart from the common law principle that the mental element of an offence is a relevant factor in establishing liability. In this case, the licence holder would also be liable for offences that carry significant custodial penalties, in circumstances where a person is only purporting to act on their behalf. For these reasons, the Committee refers this matter to Parliament for its consideration.

#### *Wide regulatory powers impacting personal rights and liberties – short-term closure orders*

---

Proposed section 50B would grant the Secretary the power to make a short-term closure order for premises if they reasonably suspect a breach has occurred or is likely to occur. The Secretary does not need to give the relevant person prior notice of their intention to make, vary or revoke an order, nor provide the person with an opportunity to be heard.

The Committee acknowledges that the provision for closure orders is intended to disrupt the illicit tobacco trade. However, by granting the Secretary the power to make short-term closure orders based on a reasonable suspicion, this provision would create a broadly defined power that may significantly affect an individual's business and livelihood. The Committee notes that not allowing an individual the opportunity to be heard would conflict with their right to procedural fairness. Additionally, there appears to be no clear provision for an appeals process or the right to challenge or seek a review of a decision. For these reasons, the Committee refers this matter to Parliament for consideration.

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*Wide regulatory powers impacting privilege from self-incrimination*

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The Bill would grant an inspector additional powers under the *Public Health (Tobacco) Act 2008* to require documents or answers from a person, under proposed sections 45B and 45C.

Proposed section 46A provides that a person is not excused from giving relevant information on the grounds of self-incrimination. In this way, the provision expressly abrogates a person's privilege from self-incrimination, which is a fundamental common law right.

The Committee notes that subsection 46A(2) limits the use of relevant information as evidence in criminal or civil proceedings if the individual objected at the time, or was not warned that they may object on the grounds of self-incrimination. However, this safeguard does not apply to proceedings for an offence under this part. For these reasons, the Committee refers this issue to Parliament for its consideration.

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*Procedural fairness – no requirement to provide reasons - criminal intelligence*

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Proposed section 31A of the Bill would prevent the Secretary from disclosing criminal intelligence without written authorisation from the Commissioner of Police unless they are ordered to do so by a court or by law. The effect of this is that the Secretary would not be required to provide reasons for an adverse decision against an individual where doing so would disclose criminal intelligence.

Removing the obligation to provide reasons for taking an adverse action would impact an individual's procedural fairness rights, as the individual may not be aware of the case against them. This may significantly affect their business and livelihood.

However, the Committee acknowledges the need to protect criminal intelligence in relation to illicit tobacco activity. It also notes the proposed amendment to section 61 to include section 31A in the definition of 'reviewable provisions', which would ensure that the criminal intelligence provisions are subject to statutory review. For these reasons, the Committee makes no further comment.

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**Insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA**

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*Lack of clarity – class of persons who may provide certificate of evidence*

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Proposed sections 50O and 50S would allow an unclear class of persons, to be prescribed by regulations, to provide a certificate to the Secretary regarding the seizure and disposal of a product. In both sections, the certificate would be used as prima facie evidence in legal proceedings, in lieu of the seized goods.

The Committee notes that the Bill may, therefore, provide for a wide power of delegation, as an unknown or unclear class of persons prescribed by the regulations would be empowered to

provide the certificates. This may enable private individuals to be delegated functions under the proposed Act, which may be expected to be performed by public officials or authorities.

The Committee acknowledges that allowing regulations to prescribe who may be delegated functions by the Minister may allow for more flexibility in the administration of closure orders and the seizure and disposal of illicit products. The Committee also recognises that the regulations are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.

However, the Committee prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity and greater oversight of the exercise of those Executive and public functions. This is particularly so where those functions relate to evidence that may be used in legal proceedings under the Act. For these reasons, the Committee refers this matter to Parliament for consideration.

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

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#### *Commencement by proclamation*

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The Bill would commence on a day or days 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, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive

The Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. However, it also notes that the Bill would grant new regulatory powers and introduce strict and absolute liability offences that would carry significant custodial penalties. For these reasons, the Committee refers this matter to Parliament for its consideration.

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

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#### *Retrospective enactment of legislation*

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Schedule 2 of the Bill would insert proposed section 45A into the *Retail Leases Act 1994*, which would allow a lessor to terminate a lease due to a closure order being issued under the *Public Health (Tobacco) Act 2008*. Subsection 45A(3) stipulates that the section applies to a retail shop lease entered into prior to the commencement of the *Tobacco Legislation (Closure Orders) Amendment Act 2025*, that being this Bill.

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time. The Committee further notes that the retrospective application of the amendments would override existing and agreed terms such as clauses regarding the termination or breach of a retail lease, which might further impact a person's right to freedom of contract.

In addition, the Committee notes that the section would conflict with section 39(2A) of the *Interpretation Act 1987*, which requires statutory rules to commence either on the day of publication or a later specified date. For these reasons, the Committee refers this matter to the Parliament for its consideration.

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### 13. Victims Rights and Victims of Crime Commissioner Bill 2025

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

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##### *Information sharing practices impacting vulnerable individuals' right to privacy*

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The proposed *Victims Rights and Victims of Crime Act 2025* would empower the Commissioner to enter into information sharing arrangements with relevant agencies, provided the information is relevant and the extent of the information sharing is reasonably necessary to assist in the functions of the Commissioner or the agency. A 'relevant agency' is defined at proposed subsection 29(8) as a government sector agency or another entity prescribed by regulations. 'Relevant information', defined at subsection 29(4), also includes matters prescribed by regulations.

This may impact a person's right to privacy, as their information could be shared without their consent and despite any other law protecting their personal information. Further, the meanings of 'relevant information' and 'relevant agencies' are not confined by legislation and may be supplemented by regulation.

The Committee generally prefers substantive matters to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. The Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, these matters may impact the individual rights and liberties of a particularly vulnerable group (victims of crime). In the circumstances, the Committee refers this matter to Parliament for its consideration.

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

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##### *Wide regulation making powers including retrospective regulations*

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The proposed *Victims Rights and Victims of Crime Act 2025* would create a number of regulation making powers. Proposed subsection 35(b) would empower the Governor to make regulations about matters that are 'necessary or convenient to be prescribed for carrying out or giving effect to the Act.' Subsection 21(b) would also permit the Commissioner to delegate their functions to a 'person of a class prescribed by the regulations.' Further, Schedule 1 would allow regulations to retrospectively commence if they are 'provisions of a savings or transitional nature'. These provisions would automatically expire after two years, and could be made within two years of the commencement of the Act or any subsequent legislative amendments to the Act.

With respect to proposed subsections 35(b) and 21(b), the Committee generally prefers substantive matters to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. This includes the classes of persons who may be delegated statutory functions.

Regarding proposed Schedule 1, Part 1, the Committee notes that retrospectively enacted regulations conflict with section 39(2A) of the *Interpretation Act 1987*. Under this section, provisions of statutory rules commence on the day they are published on the NSW legislation website or at a later specified date. The Bill's provisions enabling the retrospective commencement of regulations may make it difficult for individuals to ascertain the commencement date of regulations made under the Bill and, therefore, the laws that apply to them. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.

However, the Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. With regard to Schedule 1, Part 1, the Committee acknowledges that it may be more administratively efficient to amend defined transitional periods within the Act by regulation. Further, it acknowledges that savings or transitional provisions taking effect before publication would not affect the rights of a person in a way that is prejudicial to that person. In the circumstances, the Committee makes no further comment.

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#### *Commencement by proclamation*

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The proposed *Victims Rights and Victims of Crime Act 2025* would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons.

However, the Committee acknowledges that the proposed commencement by proclamation is intended to allow sufficient time for the appointment of the new Victims of Crime Commissioner and the establishment of the Commissioner's office. In the circumstances, the Committee makes no further comment.

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### **14. Workers Compensation Amendment (Firefighters' Diseases) Bill 2025\***

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

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### **15. Workers Compensation Amendment (Reform and Modernisation) Bill 2025**

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

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##### *Procedural fairness in compensation claims*

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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 consult with the worker's treating practitioners, to call for the production of the worker's medical records, and to personally examine the worker. If a worker 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 an avenue to review the suspension of a worker's compensation or provide a justifiable basis on which a worker could refuse to undergo an examination or obstruct an examination. Further, 'obstruct' is not defined, which could lead to 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, where an individual's personal medical information and bodily autonomy are concerned, their right to procedural fairness by way of a review process is paramount. For this reason, the Committee refers this matter to Parliament for consideration.

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

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#### *Wide regulation making powers*

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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*

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The Bill proposes to insert 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*

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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.

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

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#### *Incorporating significant matters in external guidelines not subject to disallowance*

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The Bill would amend 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 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 One – Bills

# 1. Child Protection (Working with Children) and Other Legislation Amendment Bill 2025

Date introduced	5 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Kate Washington MP

## Purpose and description

- 1.1 The object of the Bill is to amend the following Acts, in relation to persons working with children and other vulnerable persons:
- (a) the Child Protection (Working with Children) Act 2012 (the Working with Children Act)
  - (b) the *Children (Education and Care Services National Law Application) Act 2010*
  - (c) the *Civil and Administrative Tribunal Act 2013*
  - (d) the National Disability Insurance Scheme (Worker Checks) Act 2018 (the **NDIS (Worker Checks) Act**).
- 1.2 The Bill also makes minor amendments to the following Acts:
- (a) the *Child Protection (Offenders Registration) Act 2000*
  - (b) the *Child Protection (Offenders Registration) Amendment Act 2024*
  - (c) the *Criminal Procedure Act 1986*.

## Background

- 1.3 The Bill seeks to amend several Acts that regulate the persons that can work with children and people with disability.
- 1.4 In her second reading speech, the Hon. Kate Washington MP, Minister for Families and Communities, explained that:
- ...suitability for child-related work must be guided by the paramount importance of the safety of children. It is in this context that the Working with Children Check scheme must be made stronger and safer for children by ensuring that all decisions made under the Act are conducted by the Children's Guardian.
- 1.5 The key amendments proposed by the Bill include:

- clarifying the current expectation that employers and regulators may require a person to hold a Working with Children Check clearance before they start working with children, and clarifying beyond doubt that a Working with Children Check clearance is required to work in early childhood and outside school hours care services
- removing the ability of individuals to seek an external review of a Children's Guardian clearance decision from the NSW Civil and Administrative Tribunal (NCAT)
- removing the ability of individuals to seek an external review of a NSW Early Childhood Education and Care Regulatory Authority decision to impose a prohibition notice
- providing for a new internal review and disqualification assessment framework to be administered and determined by the Children's Guardian
- removing external appeal pathways under the NDIS Worker Check scheme to maintain consistency across the worker check schemes administered by the Children's Guardian
- strengthening existing reforms made under the *Child Protection (Offenders Registration) Amendment Act 2024*.

### Issues considered by the Committee

#### **Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions: s 8A(1)(b)(iii) of the LRA**

##### *Removal of external review avenue*

- 1.6 Part 4 of the Working with Children Act currently allows applicants who have had their clearances refused or cancelled by the Children's Guardian to apply to NCAT for an administrative review of the decision.
- 1.7 Schedule 1[6] of the Bill seeks to replace Part 4 with a revised process for internal review and disqualification reassessment in relation to the Working with Children Check scheme. Proposed Divisions 2 and 3 would empower the Children's Guardian as the sole decision making body for internal reviews and disqualification reassessments.
- 1.8 Similarly, Schedule 4[1] of the Bill amends the NDIS (Worker Checks) Act to remove NCAT's review functions under that Act, and to provide for applications to the Screening Agency for review of decisions.
- 1.9 Schedule 3 of the Bill makes consequential amendments to remove references to the jurisdiction of NCAT in both of these Acts. In addition, the Bill seeks to remove clause 17 from Schedule 3 of the *Civil and Administrative Tribunal Act 2013*, which provides for certain decisions under both Acts to be appealed directly to the Supreme Court.
- 1.10 In explaining the rationale for the proposed changes, the Minister said:

Under the existing legislation, individuals who have been convicted of disqualifying offences—including offences involving sexualised

behaviours with respect to children—have had the ability to seek orders from the tribunal which declare that the individual is not to be treated as a disqualified person and is subsequently granted a Working with Children Check clearance by the Children's Guardian.

1.11 The Minister further stated:

The bill strikes the appropriate balance between the need to ensure procedural fairness with the need to safeguard children against risk by ensuring that decisions relating to clearances are finally determined by the Children's Guardian as the expert body and not by an external review body that may not be as specialised in safeguarding children.

**The Bill seeks to amend a number of pieces of legislation to remove the avenue for external review of decisions regarding Working with Children Checks and NDIS Worker Checks. In particular, the Bill proposes to replace Part 4 of the *Child Protection (Working with Children) Act 2012*, which would establish the Children's Guardian as the sole decision making and review body in respect of Working with Children Checks. The change would also remove the current avenue for administrative review of a Children's Guardian clearance decision by the NSW Civil and Administrative Tribunal (NCAT). In addition to this, the Bill seeks to remove clause 17 from Schedule 3 of the *Civil and Administrative Tribunal Act 2013*, which allows for certain decisions under both Acts to be appealed directly to the Supreme Court.**

By removing the existing avenue for review of a clearance decision by NCAT, the Bill would limit the administrative review of decisions made in relation to both types of clearance checks. Similarly, by removing the provision for direct appeals to the Supreme Court, the Bill would limit the capacity for judicial review of these decisions. The Committee notes that the removal of these grounds for review may limit procedural fairness and make a claimant's rights or obligations unduly dependent upon a decision that cannot be independently reviewed.

However, in this case the Committee acknowledges that the amendments are intended to protect children and other vulnerable persons by reducing the risk of previously disqualified persons being granted a Working with Children Check clearance. The Committee also notes that the Bill would create an internal review process so that decisions would still be reviewable by the Children's Guardian, which has specialised knowledge regarding child protection and safety. Noting the strong policy rationale for the amendments, the Committee makes no further comment.

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

*Commencement by proclamation*

1.12 Clause 2 of the Bill provides that the Act would commence on a day or days to be appointed by proclamation.

1.13 In her second reading speech, the Minister explained that:

...the Children's Guardian and NCAT will need time to manage the transition of functions. In particular, the Children's Guardian will need time to establish the internal review mechanism, and put systems, policies and governance in place before implementation occurs.

**The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.**

**However, the Committee acknowledges that a flexible start date may be appropriate where time is needed for the Children's Guardian, the NSW Civil and Administrative Tribunal and other relevant bodies to implement necessary administrative arrangements. In the circumstances, the Committee makes no further comment.**

#### *Uncertainty – Amendment of amending Act*

1.14 The Bill seeks to amend the *Child Protection (Offenders Registration) Amendment Act 2024* (the **amending Act**), which passed Parliament on 20 September 2024 and was assented to on 30 September 2024. The amending Act was to commence by proclamation and, at the time of writing, has not yet commenced.

1.15 The changes the Bill seeks to make to the amending Act are miscellaneous. The amendments to Schedule 1, proposed sections 3J(2), 3J(2)(b), 3J(4) and 3K(1), make minor procedural changes and obligations to the court when making a registrable person order or child protection registration order.

1.16 The Minister explained that the amendments would:

...ensure that persons who exit the sentencing court without their registration document are not then able to say that they were unaware of their reporting obligations.

**The Bill proposes amendments to the *Child Protection (Offenders Registration) Amendment Act 2024*, which has not yet commenced at the time of writing.**

**The proposed amendments may create some uncertainty about when the relevant provisions would take effect, and may make it difficult for individuals to ascertain their procedural rights. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.**

**However, in this case, the proposed amendments are minor procedural clarifications and do not impact existing obligations. For these reasons, the Committee makes no further comment.**

## 2. Crimes Amendment (Deepfake Sexual Material) Bill 2025\*

Date introduced	8 August 2025
House introduced	Legislative Assembly
Member with carriage	Ms Felicity Wilson MP
*Private Members Bill	

### Purpose and description

- 2.1 The objects of this Bill are:
- (a) to clarify that the prohibition on producing or distributing, or threatening to produce or distribute, an intimate image applies to a deepfake intimate image
  - (b) to prohibit producing or distributing, or threatening to produce or distribute, sexually explicit deepfake audio or sexually explicit deepfake text.

### Background

- 2.2 The Bill seeks to amend the *Crimes Act 1900* to clarify that offences relating to the non-consensual production and use of intimate materials extend to digitally created or altered materials.
- 2.3 In her second reading speech, Ms Felicity Wilson MP stated that the Bill would address the 'rise of sexually explicit deepfakes', and described the issue as one 'that is rapidly escalating and poses a severe threat to the dignity, privacy and safety of individuals, particularly women, in our society.'
- 2.4 The Bill's key provisions would amend the existing definitions of 'image' and 'record', and insert definitions for the terms 'intimate material', 'produce', 'sexually explicit deepfake audio' and 'sexually explicit deepfake text'.

### Issues considered by the Committee

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

#### *Commencement by proclamation*

- 2.5 Clause 2 provides that the Act would commence on the earlier of the following:
- 6 months after the date of assent, or
  - a day to be appointed by proclamation.

**The Bill would commence 6 months after the date of assent, or, if earlier, 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. This is particularly significant where the provisions commencing by proclamation would affect individual rights or obligations.**

**In this case, the Bill would expand the scope of existing offences that carry a maximum penalty of up to three years' imprisonment. However, the Committee acknowledges that the proposed commencement by proclamation may be intended to allow administrative arrangements to be made, as well as education and training for justice agencies. The Committee also acknowledges that, if no proclamation is made, the provisions would commence 6 months after the date of assent, which provides a measure of certainty for affected persons. In the circumstances, the Committee makes no further comment.**



### 3. Crimes Amendment (Intimate Image and Audio Material) Bill 2025

Date introduced	7 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Michael Daley MP

#### Purpose and description

- 3.1 The object of the Bill is to amend the *Crimes Act 1900* (the **Act**) in relation to sexually explicit material that is created or generated by artificial intelligence or other digital means without the consent of the person whom the image or audio is meant to represent, known as ‘deepfake’ material. The proposed amendments include:
- (a) amendments to offences that provide for non-consensual recording and distribution of intimate images to include digitally generated intimate images and sexually explicit audio material (**intimate image and audio material**).
  - (b) the creation of new offences for the alteration of images and audio to be intimate images and audio material, and relating to the production of wholly digitally generated sexually explicit intimate images and audio material.

#### Background

- 3.2 The Bill seeks to introduce new offences into the Act to criminalise the use of artificial intelligence or other digital means to create intimate images of another person without their consent. The Bill also seeks to expand existing offences under the Act to capture sexually explicit audio material.
- 3.3 In his second reading speech, the Hon. Michael Daley MP, Attorney General, explained that the existing offences for non-consensual recording and distribution of intimate images were introduced in 2017, when the digital landscape was vastly different. He said that the Bill was intended to modernise the criminal law ‘to ensure it keeps pace with evolving technology.’
- 3.4 The Bill would create two new offences relating to intimate image and audio materials:
- (a) Proposed section 91PA would criminalise the act of altering or creating intimate image and audio materials of another person without their consent.
  - (b) Proposed section 91R(1A) would criminalise the act of threatening to alter or create intimate image and audio materials of another person without their consent.

## Issues considered by the Committee

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

#### *Commencement by proclamation*

- 3.5 Clause 2 of the Bill provides that the Act would commence on a date or days appointed by proclamation.
- 3.6 In his second reading speech, the Attorney General explained that this is 'to enable necessary systems updates to be made, and for education and training for justice agencies.'

**The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. This is particularly significant where the provisions commencing by proclamation would affect individual rights or obligations.**

**In this case, the Bill would create new offences that would carry a maximum penalty of up to three years' imprisonment. However, the Committee acknowledges that the proposed commencement by proclamation is intended to allow necessary systems updates to be made, as well as education and training for justice agencies. In the circumstances, the Committee makes no further comment.**

## 4. Crimes and Roads Legislation Amendment (Obstruction Offences Repeals) Bill 2025\*

Date introduced	7 August 2025
House introduced	Legislative Assembly
Member with carriage	Ms Kobi Shetty MP
*Private Members Bill	

### Purpose and description

- 4.1 The object of the Bill is to amend crimes and roads legislation to abolish certain offences for behaviour that causes damage or disruption to major roads, major public facilities or places of worship.

### Background

- 4.2 During her second reading speech, Ms Kobi Shetty MP noted that NSW has passed more anti-protest laws than any other jurisdiction over the past 20 years, with significant changes since 2022 to criminalise peaceful protests. In seeking to repeal these recent changes, Ms Shetty stated:

We must ensure we have a society where people are not criminalised and imprisoned for expressing themselves in peaceful and nonviolent ways. The ongoing attacks on the right to protest must stop, and these undemocratic laws should be repealed.

- 4.3 The Bill proposes amendments to the *Roads Act 1993*, the *Crimes Act 1900*, the *Law Enforcement (Powers and Responsibilities) Act 2002* and their respective regulations to:
- modify and remove offences related to roads, bridges and tunnels under the *Roads Act 1993*
  - modify and remove offences related to railways, major facilities or places of worship under the *Crimes Act 1900*
  - remove police officer 'move on' powers in relation to protests occurring in or near a place of worship under the *Law Enforcement (Powers and Responsibilities) Act 2002*.

### 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*.**

## 5. Crimes Legislation Amendment (War Memorial Offences) Bill 2025

Date introduced	7 August 2025
House introduced	Legislative Council
Member with carriage	The Hon. Tara Moriarty MLC

### Purpose and description

- 5.1 The object of the Bill is to amend the *Crimes Act 1900* and the *Summary Offences Act 1988* regarding offences committed in relation to war memorials.

### Background

- 5.2 During her second reading speech, the Hon. Tara Moriarty MLC, on behalf of the Hon. Michael Daley MP, Attorney General, noted that there are existing legislative protections in place for war memorials, including:

- offences under section 195 of the *Crimes Act 1900* relating to intentional or reckless damage or destruction of property, which carry a maximum penalty of five years' imprisonment
- offences under section 8 of the *Summary Offences Act 1988* prohibiting damage or desecration of war memorials, which carry a maximum penalty of a \$4,400 fine (40 penalty units).

- 5.3 Minister Moriarty explained that the Bill seeks to strengthen these existing protections through two key amendments:

Firstly, it introduces an aggravated property damage offence that will see damage or destruction of war memorials punishable by imprisonment of up to seven years. Secondly, it introduces a discretionary compensation order into the Summary Offences Act that will allow a court to order that compensation be paid if an offence against section 8 of the Summary Offences Act is committed against a war memorial.

- 5.4 The proposed offence of intentionally or recklessly destroying or damaging war memorial property, under proposed section 195(1AA) of the *Crimes Act 1900*, would carry a maximum penalty of seven years' imprisonment, which is an additional two years compared to the base property damage offence.

- 5.5 The proposed amendment to the *Summary Offences Act 1988* would insert section 8(3A), which would enable a court to order a person convicted of an offence to pay another person compensation up to \$4,400 for the damage or loss incurred. A discretionary compensation order would operate in addition to any fine or penalty imposed for the offence under section 8.

- 5.6 The Bill differs substantially from the Summary Offences Amendment (War Memorials and Other Protected Places) Bill 2025, which was introduced by Ms Robyn Preston

MP on 15 May 2025 to deter similar offences against war memorials. The Committee commented on that bill, as it sought to:

- expand the definition of 'war memorial'
- significantly increase the maximum penalties for the offences under section 8 of the *Summary Offences Act 1988*
- introduce compulsory compensation orders that would limit judicial discretion.

### 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*.**

# 6. Electricity Infrastructure Investment Amendment (Priority Network Projects) Bill 2025

Date introduced	5 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Jihad Dib MP (on behalf of the Hon. Penny Sharpe MLC)

## Purpose and description

- 6.1 The object of the Bill is to amend the *Electricity Infrastructure Investment Act 2020* (the **Act**) to:
- (a) broaden the meaning of a priority transmission infrastructure project to include a priority network infrastructure project
  - (b) broaden and clarify the Minister’s powers relating to directing network operators to carry out renewable energy zone (REZ) network infrastructure projects and priority network infrastructure projects
  - (c) extend the functions of an infrastructure planner in relation to priority network infrastructure projects
  - (d) make provision for other miscellaneous matters.

## Background

- 6.2 The Act currently enables the Minister for Energy to direct a network operator to carry out a REZ network infrastructure project or a Priority Network Infrastructure Project (PNIP).
- 6.3 During his second reading speech, the Hon. Jihad Dib MP, on behalf of the Minister for Energy, the Hon. Penny Sharpe MLC, said that the Bill will 'increase the flexibility and strength of the directions framework' and enable both transmission and distribution network projects to be brought within the framework created by the Act.
- 6.4 The Bill also expands the matters that can be considered when the Minister directs a network operator to undertake a PNIP. It modifies the matters that must be specified in the direction and identifies matters that can be specified for the commencement and amendment of directions as well as the staging of directions.
- 6.5 On 5 August 2025, the Bill was declared urgent by the Legislative Assembly. On that same day, in the Legislative Council, standing orders were suspended to allow the remaining stages and second reading of the bill to be set down as orders of the day for the next sitting day. The Bill passed Parliament, without amendment, on 7 August 2025, prior to the tabling of this Digest and, therefore, before the Committee could

report on the Bill. Section 8A(2) of the *Legislation Review Act 1987* permits the Committee to report on a Bill that has passed or become an Act. In accordance with its usual practice, the Committee has considered the Bill as it was introduced.

- 6.6 Under Legislative Assembly Standing Order 188(10) and Legislative Council Standing Order 142(2), debate on a bill is typically adjourned until at least five days after the second reading speech of the mover. However, Standing Order 189 of the Assembly sets out the procedure for declaring a bill to be an 'urgent bill'. This procedure allows the House to proceed with all remaining stages of a bill's consideration immediately after the second reading speech, or at any time during that or any future sitting of the House.

## Issues considered by the Committee

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

#### *Absolute liability offence*

- 6.7 Section 35 of the Act currently provides that it is an offence for a network operator to fail to comply, without reasonable excuse, with a direction from the Minister. The maximum penalty for the offence is a \$550,000 fine (5,000 penalty units) for a corporation or a \$275,000 fine (2,500 penalty units) for an individual.
- 6.8 The Bill proposes to remove the words 'without reasonable excuse' from subsection 35(1) of the Act.
- 6.9 In the second reading speech, Minister Dib explained that removing the reference to 'reasonable excuse' will create consistency with the *Electricity Supply Act 1995* and increase confidence that projects will be delivered in accordance with directions.

**The Bill proposes to remove the words 'without reasonable excuse' from the offence in subsection 35(1) of the *Electricity Infrastructure Investment Act 2020*. Under section 35, it is an offence for a network operator to fail to comply with a direction from the Minister without reasonable excuse. By removing the potential defence of 'reasonable excuse', the Bill would make this offence an absolute liability offence.**

**The Committee generally comments on absolute liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability. However, the Committee acknowledges that absolute liability offences are not uncommon in regulatory settings to encourage compliance. Further, the offence does not include a custodial penalty and is unlikely to apply to individuals.**

**The Committee also notes that the Bill has passed both Houses of Parliament. In the circumstances, the Committee makes no further comment.**

# 7. Environmental Legislation Amendment Bill 2025

Date introduced	6 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Jihad Dib MP (on behalf of the Hon. Penny Sharpe MLC)

## Purpose and description

7.1 The object of the Bill is to make miscellaneous amendments to legislation administered by the Minister for Climate Change and the Minister for the Environment.

## Background

7.2 The Bill proposes to amend multiple Acts regulating environmental and climate change related matters. The Hon. Jihad Dib MP, on behalf of the Minister for the Environment, the Hon. Penny Sharpe MLC, said that:

The bill has been informed by recent cases, compliance and enforcement information, NSW Environment Protection Authority policies, and a comparison of similar legislation in New South Wales and across other jurisdictions. The bill ensures the EPA can effectively regulate activities that may cause environmental harm and enforce or remedy noncompliances.

7.3 The Bill proposes to amend the following Acts and regulation:

- *Climate Change (Net Zero Future) Act 2023*
- *Contaminated Land Management Act 1997*
- *Land and Environment Court Act 1979*
- *Pesticides Act 1999*
- *Plastic Reduction and Circular Economy Act 2021*
- *Product Lifecycle Responsibility Act 2025*
- *Protection from Harmful Radiation Act 1990*
- *Protection of the Environment Administration Act 1991*
- *Protection of the Environment Operations Act 1997*
- *Protection of the Environment Operations (General) Regulation 2022*
- *Stock Medicines Act 1989*



- *Waste Avoidance and Resource Recovery Act 2001.*

7.4 The Minister explained:

This bill amends several environment protection Acts to build on existing actions to incorporate Aboriginal perspectives and respect for country into environmental management, to strengthen legislation by addressing gaps and streamlining regulation, and to ensure the EPA has clear frameworks to deter environmental crimes and respond to pollution incidents.

### Issues considered by the Committee

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

##### *Commencement by proclamation*

7.5 Clause 2 of the Bill provides that the Act commences:

- for schedules 1 and 9[47] - on the date of assent
- otherwise - on a day or days to be appointed by proclamation.

7.6 The Bill proposes to amend a number of offence provisions. Notably, Schedules 5[4], 6[1], 9[48] and 12[4] of the Bill seek to introduce executive liability for a number of existing offences.

7.7 In his second reading speech, the Minister stated:

The bill ensures that executive liability provisions are embedded across all environment protection legislation. If a company commits an executive liability offence, directors can also be held liable. Executive liability offences are generally more serious in nature and are important for ensuring compliance on the part of those with influence over the activities of a corporation.

**Other than schedules 1 and 9[47], the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions, particularly where the provisions would affect individual rights or obligations.**

**In this case, the Bill seeks to introduce executive liability for a number of existing offences, which would make individual directors liable for offences committed by corporations. However, the Committee notes that the maximum penalty for these offences is monetary, not custodial, and that the offences are not new offences. It also acknowledges the practical reasons for allowing a flexible start date. In these circumstances, the Committee makes no further comment.**

##### *Retrospective application of offence provisions*

7.8 The Bill proposes to insert section 144AB(1)(aaaa) into the *Protection of the Environment Operations Act 1997* to provide that the offence in section 48(2), if it

relates to an activity in Schedule 1, clauses 39-42, is a waste offence for the purpose of the offence provision in section 144AB. The offence in section 48(2) relates to the failure to hold a relevant licence.

- 7.9 A person commits an offence under section 144AB if the person is convicted of a waste offence and commits a separate waste offence within five years of the initial conviction. The maximum penalty for a repeat waste offence is \$500,000 or two years' imprisonment, or both.
- 7.10 Schedule 9[85] of the Bill provides that proposed section 144AB(1)(aaaa) applies to offences committed before the clause commences.
- 7.11 The Minister explained that:

The bill broadens the repeat waste offence to cover offences relating to a failure to hold a licence. This allows a court to impose a jail penalty if a subsequent offence is committed across a range of waste-related offences.

**The Bill proposes to amend the *Protection of the Environment Operations Act 1997* to expand the scope of the repeat waste offence in section 144AB. A person commits an offence under section 144AB if they are convicted of a waste offence and then commit another waste offence within five years of the initial conviction. The repeat waste offence in section 144AB is subject to a maximum penalty of \$500,000 or two years' imprisonment, or both.**

The Bill also seeks to insert savings and transitional provisions that provide that the inclusion of the new offence under section 144AB extends to offences committed before the relevant clause of the Bill commences. This could allow the retrospective application of the offence provision, as previous convictions could constitute a repeat offence before the relevant provision has commenced. The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time. This is particularly important where the provisions may affect individual rights or obligations.

However, the Committee acknowledges the policy rationale of expanding the offence to address non-compliance with the regulatory regime by capturing existing convictions under the Act. It also recognises that the retrospective application does not create additional offences, but links previous convictions to potential future convictions. For these reasons, the Committee makes no further comment.

## 8. Kosciuszko Wild Horse Heritage Repeal Bill 2025\*

Date introduced	8 August 2025
House introduced	Legislative Assembly
Member with carriage	Dr Joe McGirr MP
*Private Members Bill	

### Purpose and description

- 8.1 The object of the Bill is to repeal the *Kosciuszko Wild Horse Heritage Act 2018* and dissolve the Wild Horse Community Advisory Panel.

### Background

- 8.2 During his second reading speech, Dr Joe McGirr MP explained:

The bill removes legislation that has for too long undermined the essence of the Kosciuszko National Park and the protection of our precious natural heritage... The Kosciuszko Wild Horse Heritage Act flies in the face of logic, environmental science and responsible national park management. This is widely recognised across political aisles.

- 8.3 The Bill proposes to repeal the *Kosciuszko Wild Horse Heritage Act 2018* and bring the management of wild horses in Kosciuszko National Park within the remit of the *National Parks and Wildlife Act 1974* (the **Act**).
- 8.4 The Bill provides for the continuation of the current wild horse heritage management plan as a plan of management under Part 5 of the Act. It also requires the Minister for the Environment to amend the plan of management to include objectives and performance measures relating to the management of wild horses in the park on or before the 'transition date'.
- 8.5 The transition date is defined as 1 July 2027, or a date between 1 January 2027 and 1 July 2027 to be appointed by proclamation. Under the Bill's provisions, the Wild Horse Community Advisory Panel would also be dissolved on the transition date.

### 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*.**

# 9. Parliamentary Remuneration Amendment (Basic Salary) Bill 2025

Date introduced	5 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Ron Hoenig MP

## Purpose and description

- 9.1 The object of the Bill was to amend the *Parliamentary Remuneration Act 1989* (the **Act**) to provide for the amount of the basic salary for members of both Houses of Parliament for the 2025–26 financial year. The amount represents a 3.5% increase on the previous basic salary fixed for members.

## Background

- 9.2 The Bill amended the Act to effect a 3.5% increase on the basic salary for Members of Parliament for the 2025-2026 financial year.
- 9.3 In his second reading speech, the Hon. Ron Hoenig MP, on behalf of the Premier, the Hon. Chris Minns MP, stated that the Bill would override a recent determination by the Parliamentary Remuneration Tribunal (the **Tribunal**) providing for a 4% increase in Members' basic salary. Mr Hoenig explained that the Bill is 'consistent with the Government's commitment to achieving a sustainable fiscal position'.
- 9.4 The Bill commenced retrospectively from 1 July 2025, which aligns with the commencement date of the Tribunal's 2025 basic salary determination.
- 9.5 The Bill was declared urgent by the Legislative Assembly on 5 August 2025. On that same day, in the Legislative Council, standing orders were suspended to allow the remaining stages and second reading of the bill to be set down as orders of the day for the next sitting day. The Bill passed Parliament on 7 August 2025, without amendment, prior to the tabling of this Digest and, therefore, before the Committee could report on the Bill. Section 8A(2) of the *Legislation Review Act 1987* permits the Committee to report on a Bill which has passed or become an Act. In accordance with its usual practice, the Committee has considered the Bill as it was introduced.
- 9.6 Under Legislative Assembly Standing Order 188(10) and Legislative Council Standing Order 142(2), debate on a bill is typically postponed for at least five days after the second reading speech of the mover. However, Standing Order 189 of the Assembly sets out the procedure for declaring a bill to be an 'urgent bill'. This procedure allows the House to proceed with all remaining stages of a bill's consideration immediately after the second reading speech, or at any time during that or any future sitting of the House.

## 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*.**

## 10. Public Health (Tobacco) Amendment (Illicit Tobacco) Bill 2025\*

Date introduced	8 August 2025
House introduced	Legislative Assembly
Member with carriage	Ms Kellie Sloane MP
*Private Members Bill	

### Purpose and description

10.1 The object of the Bill is to amend the *Public Health (Tobacco) Act 2008* (the **Act**) to:

10.2 increase penalties for certain offences

a) provide for closure orders for illicit tobacco and vaping goods sales.

The Bill also makes related amendments to the following:

10.3 the Public Health (Tobacco) Regulation 2022

a) the *Retail Leases Act 1994*

b) the *Criminal Procedure Act 1986*

c) the *Medicines, Poisons and Therapeutic Goods Act 2022*

d) the *Small Business Commissioner Act 2013*.

### Background

10.4 The Bill seeks to amend the Act to provide for closure orders for illicit tobacco and vape sales, and to increase penalties for certain offences.

10.5 In her second reading speech, Ms Kellie Sloane MP explained that the Bill 'provides for tough new laws that will shut down illicit tobacco retailers and deliver some of the strongest penalties in the country for serious offenders.'

10.6 Ms Sloane further provided that the intent of the Bill is to:

...[protect] our community. It is about protecting our kids and small businesses. As the health Minister said, these laws will not be a silver bullet, but they are another important step in cracking down on criminals and continuing the process to cut smoking rates.

## Issues considered by the Committee

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

#### *Introduction of custodial penalties for existing absolute liability offences*

- 10.7 The Bill proposes to introduce a 'second or subsequent offence' penalty for a number of existing absolute liability offences in the Act relating to the sale of tobacco. These offences include:
- 10.8 Section 6, which prohibits a person from selling a tobacco product that is not in the package in which it was packed by the manufacturer, and from selling cigarettes as individual items or in a package containing fewer than 20 cigarettes
- (a) Section 7, which prohibits a person from packing or selling a tobacco product in a package that is not marked with a health warning
  - (b) Section 8, which prohibits a person from packing or selling a tobacco product that is packaged with any prohibited words.
- 10.9 The Bill proposes to increase the maximum penalty for the offences under sections 6, 7 and 8 to:
- (a) a \$154,000 fine (1,400 penalty units) for a first offence, for an individual
  - (b) a \$308,000 fine (2,800 penalty units) or imprisonment for 7 years, or both, for a second or subsequent offence, for an individual.

**The Bill proposes to increase the penalties for existing absolute liability offences under the *Public Health (Tobacco) Act 2008*. These offences, under sections 6, 7 and 8, relate to the selling of cigarettes not in the manufacturer's package, without health warnings, or with prohibited words on the package. The new proposed maximum penalties include both monetary and custodial penalties, with a maximum of 7 years' imprisonment for an individual for a second or subsequent offence.**

**The Committee notes that the relevant offences under the Act are absolute liability offences. The Committee generally comments on absolute liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.**

**The Committee acknowledges that absolute liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would now carry a custodial penalty, and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. There would also be no defence available for these offences. For these reasons, the Committee refers this matter to Parliament for its consideration.**

#### *New strict liability offences*

- 10.10 The Bill seeks to insert section 50E into the Act, which creates a strict liability offence. The offence provides that a person must not, while a closure order is in effect for a

particular premises, sell goods at the premises or provide services at the premises for a fee or other consideration.

- 10.11 The maximum penalties ascribed to this offence are a \$140,000 fine (1,400 penalty units) for an individual or \$770,000 (7,000 penalty units), otherwise.

**The Bill seeks to introduce a new offence into the *Public Health (Tobacco) Act 2008* under proposed section 50E. This offence prohibits a person from selling goods at a premises or providing services at the premises while a closure order is in effect.**

**The Committee generally comments on strict liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.**

**However, the Committee acknowledges that this proposed offence is intended to restrict the sale of illicit tobacco and combat underground and illegal tobacco networks. It also acknowledges that strict liability offences are not uncommon in regulatory frameworks to encourage compliance and fair practices. Further, the Committee notes that the offences would carry monetary penalties rather than custodial penalties. For these reasons, the Committee makes no further comment.**

*Wide regulatory powers – short-term closure orders*

- 10.12 The Bill seeks to insert proposed section 50B into the Act, which would grant the Secretary the power to order the closure of a premises for a period of no longer than 28 days. In order to do so, they must be satisfied that:
- 10.13 illicit tobacco has been, or is likely to be sold on the premises
- 10.14 vaping goods have been, or are likely to be sold on the premises in contravention of the *Poisons and Therapeutic Goods Act 1966*, Part 3A
- 10.15 tobacco products have been, or are likely to be sold on the premises in contravention of section 6
- 10.16 tobacco products or non-tobacco smoking products have been, or are likely to be sold on the premises in contravention of section 37 or 38.
- 10.17 The Bill also seeks to insert proposed section 50C, which would give an owner or person with management or control of a premises that is subject to a short-term closure order the ability to apply to the Secretary for a review of the decision within seven days of the order being served.

**The Bill seeks to insert proposed section 50B into the *Public Health (Tobacco) Act 2008*, which would give the Secretary the discretionary power to order the short-term closure of a premises.**

**In doing so, the Bill would grant a wide regulatory power to the Secretary to close a premises for a period of time (28 days). An order of this kind is one that may significantly affect an individual's business and livelihood.**

**However, the Committee notes the proposed review mechanism in section 50C, which would allow an individual impacted by a short-term closure order to apply to the Secretary for a review of the decision. This acts as a safeguard on how the powers under proposed section 50B may be exercised. For this reason, the Committee makes no further comment.**

*Reversal of the onus of proof and the right to the presumption of innocence*

- 10.18      The Bill seeks to insert proposed section 50I into the Act, which creates an offence that would prohibit an owner or a person with management or control of premises to sell illicit tobacco or vapes on the premises or operate without a tobacco licence. The maximum penalty proposed for an individual is a \$154,000 fine (1,400 penalty units).
- 10.19      Proposed subsection 50I(2) provides that, in proceedings, the accused bears the onus of proving that they did not have knowledge of an illegal sale if they:
- 10.20      are the owner of the premises
- 10.21      were notified about a closure order applying to the premises resulting from an earlier sale
- 10.22      are the lessor of the premises under a retail lease and did not terminate the retail shop lease within 30 days after being notified of a closure order.

**The Bill proposes to insert section 50I into the *Public Health (Tobacco) Act 2008*. This section would introduce a new offence prohibiting an owner or a person with management or control of a premises to sell illicit tobacco or vapes on the premises or operate without a tobacco licence. Subsection 50I(2) provides that the accused would bear the onus of proving that they did not have the knowledge of the sale if they meet certain criteria.**

**This would reverse the onus of proof by requiring the accused to prove any matter of their innocence. In regard to criminal actions, a reversed onus may undermine a person's 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 proved guilty according to law.**

**However, the Committee acknowledges that the presumption of innocence is not absolute. In this case, the Committee also notes that the offence would carry a monetary rather than a custodial penalty. For these reasons, the Committee makes no further comment.**



## 11. Summary Offences Amendment (Limitation on Offensive Language) Bill 2025\*

Date introduced	6 August 2025
House introduced	Legislative Council
Member with carriage	The Hon. Jeremy Buckingham MLC
*Private Members Bill	

### Purpose and description

- 11.1 The object of the Bill is to amend the *Summary Offences Act 1988* (the **Act**) to limit the scope of the offence of offensive language to require the offensive language to be used in a hostile or threatening way.

### Background

- 11.2 In his second reading speech, the Hon. Jeremy Buckingham MLC stated:

In 2023 there were 564 offensive language charges finalised in New South Wales courts. Shockingly, 45 per cent of those charges were laid against Aboriginal and Torres Strait Islander people, who make up just 3.4 per cent of our State's population. This is not justice; it is systemic bias codified in law. This amending bill will prevent the use of section 4A as a blunt instrument. It will ensure that only genuinely threatening or hostile conduct and language can be prosecuted. Swearing at the air, venting frustration, or even protesting with strong language will no longer be grounds for a criminal record.

- 11.3 The Bill's key provision would amend section 4A(1) of the Act so that offensive language would only constitute an offence if it was used 'in a hostile or threatening way'.

### 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*.**

## 12. Tobacco Legislation (Closure Orders) Amendment Bill 2025

Date introduced	6 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Ryan Park MP

### Purpose and description

12.1 The objects of the Bill are to:

- (a) amend the *Public Health (Tobacco) Act 2008* (the **Act**) as follows:
  - (i) to provide that the Secretary of the Ministry of Health (the **Secretary**) may make an order (a **short-term closure order**) to close premises used in connection with offences under the Act, including the sale of illicit tobacco and illicit vaping goods
  - (ii) to provide that the Local Court may make an order (a **long-term closure order**) to close premises used in connection with offences under the Act, including the sale of illicit tobacco and illicit vaping goods
  - (iii) to increase penalties for offences under the Act and to align penalties with equivalent penalties under the *Poisons and Therapeutic Goods Act 1966* relating to vaping goods
  - (iv) to provide protections for criminal intelligence given by the Commissioner of Police for the purposes of the Act
  - (v) to update the provisions concerning seizure and disposal of products to provide that illicit tobacco and illicit vaping goods may be seized and disposed of
  - (vi) to provide that the amendments to the Act providing for closure orders must be subject to review at the same time as the provisions of the Act providing for tobacco retailer and wholesaler licensing are reviewed, and
- (b) amend the *Retail Leases Act 1994* to provide that a lessor of retail premises may terminate the lease if the premises have been made the subject of a closure order under the *Public Health (Tobacco) Act 2008*.

### Background

12.2 In his second reading speech, the Hon. Ryan Park MP, Minister for Health, explained that while the Act 'provides a strong foundation for tobacco control, it is not currently sufficient to confront the elaborate and growing scale of underground, illegal tobacco networks that are spreading like wildfire across our suburbs, towns and communities.'

12.3 He further explained:

The illicit tobacco industry is not a minor nuisance; it is a growing underground industry that feeds organised crime, undermines public health efforts and disadvantages legitimate retailers. The purpose of this bill is simple: We want to disrupt illegal tobacco networks by hitting illegal operators hard with strong, targeted and enforceable laws.

12.4 The Bill's key provisions seek to:

- establish a regime to allow for the closure of premises where illicit tobacco or vaping goods have been, or are likely to be sold, or unlicensed premises where tobacco and non-tobacco smoking products have been, or are likely to be sold
- introduce new offences prohibiting people from selling tobacco products, smoking products or vaping products at premises that are subject to a closure order
- give inspectors and the Secretary stronger enforcement powers
- establish information sharing mechanisms between the Secretary and specified agencies
- enable retail lessors to terminate retail leases if a closure order is in place.

### Issues considered by the Committee

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

##### *Absolute and strict liability offence regime*

12.5 The Bill proposes to insert a number of new absolute and strict liability offences into the Act, some of which carry custodial penalties.

- Proposed section 6A would prohibit a person from possessing a commercial quantity of illicit tobacco. Failure to comply with the provision would carry a maximum penalty of imprisonment for up to 2 years for the lower range of possession, or up to 7 years' imprisonment for the highest range of possession.
- Proposed section 50K would make it an offence for a person to sell products from closed premises, with a maximum penalty of up to 6 months' imprisonment for a first offence, or 12 months' imprisonment for a second or subsequent offence. Under proposed subsection 50K(3), it is a defence if a person did not know, and could not reasonably have been expected to know, that the premises were closed premises.

12.6 The Bill would also introduce custodial penalties for existing absolute liability offences.

- The proposed amendments to section 6 of the Act, which prohibits certain tobacco sales, would introduce a maximum penalty of up to 7 years'

imprisonment for this offence. Under proposed subsection 6(2), tobacco is presumed to be for sale if more than the prescribed quantity of tobacco is on premises.

- The proposed amendments to section 7 of the Act, which prohibits the packing of a tobacco product without a health warning, would introduce a maximum penalty of up to 7 years' imprisonment for this offence.

**The Bill proposes to insert a number of new absolute and strict liability offences into the *Public Health (Tobacco) Act 2008*, some of which would carry custodial penalties.**

**Proposed section 6A would create a new absolute liability offence by prohibiting a person from possessing a commercial quantity of illicit tobacco. This offence would carry a maximum penalty of up to 7 years' imprisonment. Proposed section 50K would also create a new offence prohibiting a person from selling products from closed premises. This offence would carry a maximum penalty of up to 12 months' imprisonment for a second and subsequent offence. Under subsection 50K(3), a defence of 'reasonable excuse' would be available, making it a strict liability offence.**

**Additionally, the Bill would introduce custodial penalties for existing absolute liability offences under the Act. These offences, under sections 6 and 7, relate to the selling of cigarettes not in the manufacturer's package, or without health warnings on the package. The new proposed maximum penalties include both monetary and custodial penalties of up to 7 years' imprisonment.**

**The Committee generally comments on absolute and strict liability offences as they depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability. The Committee acknowledges that absolute and strict liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would carry a custodial penalty and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. There would also be no defence available for the absolute liability offences. For these reasons, the Committee refers the matter to Parliament for its consideration.**

#### *Vicarious liability – offences with custodial penalties*

- 12.7 The Bill seeks to insert proposed section 53A into the Act. This section provides that if an agent of a licence holder commits an offence under the Act or the regulations, the licence holder will be guilty of the offence and subject to the penalty specified for the contravention.
- 12.8 Proposed subsection 53A(2) clarifies that an agent can include an employee, a person acting on behalf of the licence holder, or a person purporting to act on behalf of the licence holder.

**Proposed section 53A stipulates that, should an agent of a licence holder commit an offence under the *Public Health (Tobacco) Act 2008* or regulations, the licence holder is guilty of the offence and subject to the**

**penalty specified for the contravention. The penalties prescribed under the Act include both monetary and custodial penalties.**

**The Committee notes that vicarious liability offences are not uncommon in regulatory settings to encourage compliance, and that the Bill is intended to deter illicit tobacco trading and reflect community expectations.**

**However, the Committee generally comments on vicarious liability offences as they depart from the common law principle that the mental element of an offence is a relevant factor in establishing liability. In this case, the licence holder would also be liable for offences that carry significant custodial penalties, in circumstances where a person is only purporting to act on their behalf. For these reasons, the Committee refers this matter to Parliament for its consideration.**

*Wide regulatory powers impacting personal rights and liberties – short-term closure orders*

- 12.9 The Bill proposes to insert section 50B into the Act, which would allow the Secretary to make short-term closure orders for premises.
- 12.10 The proposed section stipulates that a closure can be for a period not longer than 90 days and may be made if the Secretary 'reasonably suspects that a relevant breach has occurred, or is likely to occur, on the premises.'
- 12.11 Subsection 50B(6) provides that in making, varying or revoking a short-term closure order, the Secretary is not required to give the person:
- prior notice of the Secretary's intention to make, vary or revoke the order, or
  - an opportunity to be heard.

**Proposed section 50B would grant the Secretary the power to make a short-term closure order for premises if they reasonably suspect a breach has occurred or is likely to occur. The Secretary does not need to give the relevant person prior notice of their intention to make, vary or revoke an order, nor provide the person with an opportunity to be heard.**

**The Committee acknowledges that the provision for closure orders is intended to disrupt the illicit tobacco trade. However, by granting the Secretary the power to make short-term closure orders based on a reasonable suspicion, this provision would create a broadly defined power that may significantly affect an individual's business and livelihood. The Committee notes that not allowing an individual the opportunity to be heard would conflict with their right to procedural fairness. Additionally, there appears to be no clear provision for an appeals process or the right to challenge or seek a review of a decision. For these reasons, the Committee refers this matter to Parliament for consideration.**

*Wide regulatory powers impacting privilege from self-incrimination*

- 12.12 Proposed section 45B would grant an inspector the power to direct a person to provide a document to them for an authorised purpose.

12.13 Proposed section 45C would grant an inspector the power to direct a person to answer questions about a matter, if the inspector:

- reasonably suspects the person to have the knowledge of a matter, and
- reasonably requires information about the matter for an authorised purpose.

12.14 Proposed section 46A expressly provides that a person is not excused from giving relevant information on the ground that the information may incriminate them or make them liable to penalty.

12.15 However, proposed subsection 46A(2) states that 'relevant information given by an individual is not admissible in evidence in criminal or civil proceedings against the individual, except proceedings for an offence under this part', if the individual:

- objected at the time to doing so on the ground that it might incriminate them, or
- was not warned on that occasion that the individual may object to giving the information or answer on the ground that it might incriminate them.

**The Bill would grant an inspector additional powers under the *Public Health (Tobacco) Act 2008* to require documents or answers from a person, under proposed sections 45B and 45C.**

**Proposed section 46A provides that a person is not excused from giving relevant information on the grounds of self-incrimination. In this way, the provision expressly abrogates a person's privilege from self-incrimination, which is a fundamental common law right.**

**The Committee notes that subsection 46A(2) limits the use of relevant information as evidence in criminal or civil proceedings if the individual objected at the time, or was not warned that they may object on the grounds of self-incrimination. However, this safeguard does not apply to proceedings for an offence under this part. For these reasons, the Committee refers this issue to Parliament for its consideration.**

*Procedural fairness – no requirement to provide reasons - criminal intelligence*

12.16 The Bill proposes to insert section 31A into the Act. The proposed section provides that the Secretary must not, without the written authorisation of the Commissioner of Police, disclose criminal intelligence:

- (a) in a notice or other statement under this part, or
- (b) in a statement under section 50G, or
- (c) under section 50L.

12.17 Subsection 31A(2) provides that the Secretary may disclose criminal intelligence if law requires them to do so or by order of a court, but they must notify the Commissioner of Police after becoming aware of such disclosure and prior to the disclosure being made.

- 12.18 In his second reading speech, the Minister explained the intended purpose of the section:

To ensure that ongoing police investigations into criminal activity are not prejudiced by supplying relevant information to NSW Health, the bill introduces important provisions to ensure that the Health secretary is not required to give reasons for an adverse decision where it would disclose criminal intelligence—something I think that we and the police support. These changes are important to ensure that the NSW Police Force can continue doing its job investigating criminal activity without barriers.

- 12.19 Further, the Bill seeks to amend section 61 to include proposed section 31A in the definition of 'reviewable provisions'. This aligns with the Minister's second reading speech, which stated that this 'will require a review of the provisions relating to closure orders and criminal intelligence.'

**Proposed section 31A of the Bill would prevent the Secretary from disclosing criminal intelligence without written authorisation from the Commissioner of Police unless they are ordered to do so by a court or by law. The effect of this is that the Secretary would not be required to provide reasons for an adverse decision against an individual where doing so would disclose criminal intelligence.**

**Removing the obligation to provide reasons for taking an adverse action would impact an individual's procedural fairness rights, as the individual may not be aware of the case against them. This may significantly affect their business and livelihood.**

**However, the Committee acknowledges the need to protect criminal intelligence in relation to illicit tobacco activity. It also notes the proposed amendment to section 61 to include section 31A in the definition of 'reviewable provisions', which would ensure that the criminal intelligence provisions are subject to statutory review. For these reasons, the Committee makes no further comment.**

#### **Insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA**

*Lack of clarity – class of persons who may provide certificate of evidence*

- 12.20 Proposed section 50O provides that the Secretary must obtain a certificate outlining particular details of a seized product. Subsection 50O(3) stipulates that the certificate may be given by:
- an inspector, or
  - a person, or a member of a class of persons, prescribed by the regulations.
- 12.21 Proposed subsection 50(2) states that, in legal proceedings under this Act, the certificate is prima facie evidence.
- 12.22 Similarly, proposed section 50S provides that the Commissioner of Police must obtain a certificate, in the form approved by the Commissioner, before disposing of illicit goods seized. Subsection 50S(6) provides that 'a certificate under this section may be given by a person, or a member of a class of persons, prescribed by regulations.'

- 12.23 Proposed subsection 50S(5) states that, in legal proceedings under this Act, the certificate is prima facie evidence.

**Proposed sections 50O and 50S would allow an unclear class of persons, to be prescribed by regulations, to provide a certificate to the Secretary regarding the seizure and disposal of a product. In both sections, the certificate would be used as prima facie evidence in legal proceedings, in lieu of the seized goods.**

**The Committee notes that the Bill may, therefore, provide for a wide power of delegation, as an unknown or unclear class of persons prescribed by the regulations would be empowered to provide the certificates. This may enable private individuals to be delegated functions under the proposed Act, which may be expected to be performed by public officials or authorities.**

**The Committee acknowledges that allowing regulations to prescribe who may be delegated functions by the Minister may allow for more flexibility in the administration of closure orders and the seizure and disposal of illicit products. The Committee also recognises that the regulations are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.**

**However, the Committee prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity and greater oversight of the exercise of those Executive and public functions. This is particularly so where those functions relate to evidence that may be used in legal proceedings under the Act. For these reasons, the Committee refers this matter to Parliament for consideration.**

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

##### *Commencement by proclamation*

- 12.24 Clause 2 of the Bill provides that the Act would commence on a day or days to be appointed by proclamation.
- 12.25 The Bill proposes to insert a number of new absolute and strict liability offences into the Act, some of which carry custodial penalties. It would also introduce custodial penalties for existing absolute liability offences under sections 6 and 7 of the Act.

**The Bill would commence on a day or days 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, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive**

**The Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. However, it also notes that the Bill would grant new regulatory powers and introduce strict and absolute liability offences that would carry significant custodial**



penalties. For these reasons, the Committee refers this matter to Parliament for its consideration.

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

*Retrospective enactment of legislation*

- 12.26 The Bill proposes to insert section 45A into the *Retail Leases Act 1994*. The amendment would allow for the termination of a retail lease due to a closure order being issued.
- 12.27 Subsection 45A(3) provides that the section applies to a retail shop lease that is entered into before the commencement of the *Tobacco Legislation (Closure Order) Amendment Act 2025*, that being this Bill.

**Schedule 2 of the Bill would insert proposed section 45A into the *Retail Leases Act 1994*, which would allow a lessor to terminate a lease due to a closure order being issued under the *Public Health (Tobacco) Act 2008*. Subsection 45A(3) stipulates that the section applies to a retail shop lease entered into prior to the commencement of the *Tobacco Legislation (Closure Orders) Amendment Act 2025*, that being this Bill.**

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time. The Committee further notes that the retrospective application of the amendments would override existing and agreed terms such as clauses regarding the termination or breach of a retail lease, which might further impact a person's right to freedom of contract.

In addition, the Committee notes that the section would conflict with section 39(2A) of the *Interpretation Act 1987*, which requires statutory rules to commence either on the day of publication or a later specified date. For these reasons, the Committee refers this matter to the Parliament for its consideration.

## 13. Victims Rights and Victims of Crime Commissioner Bill 2025

Date introduced	7 August 2025
House introduced	Legislative Council
Member with carriage	The Hon. Rose Jackson MLC

### Purpose and description

13.1 The objects of the Bill are:

- (a) to recognise and promote the rights of victims of crime under the Charter of Victims Rights
- (b) to establish a Victims of Crime Commissioner (the **Commissioner**).

### Background

13.2 The proposed *Victims Rights and Victims of Crime Commissioner Act 2025* (the **Act**) would establish a new statutory office of an independent Victims of Crime Commissioner (the **Commissioner**). It would also set out the Commissioner's functions and powers with respect to the existing Charter of Victims Rights, which would be transferred from the *Victims Rights and Support Act 2013* to the new Act.

13.3 In her second reading speech, the Hon. Rose Jackson MLC explained that the Commissioner would 'be responsible for advocating for the rights of victims at a systemic level and will identify, review and research systemic issues that impact victims of crime.'

13.4 The Bill clarifies that the Commissioner would be appointed by the Governor for a term of five years and would not be subject to the control and direction of the Minister in exercising their functions. In establishing this independent statutory office, the Bill would separate the entity responsible for advocacy from the agencies that deliver services to victims of crime.

13.5 Key provisions of the Act would include:

- the Commissioner's functions and powers to advocate for victims of crime at a systemic level, and to investigate complaints about contraventions of the Charter of Victims Rights
- the establishment of a Victims Advisory Committee
- consequential amendments to the *Victims Rights and Support Act 2013* and other legislation, as well as savings, transitional and other provisions.

## Issues considered by the Committee

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

#### *Information sharing practices impacting vulnerable individuals' right to privacy*

- 13.6 Proposed subsection 29(3) of the Act would allow the Commissioner to enter into an information sharing arrangement with a relevant agency to 'share or exchange relevant information held by the Commissioner or the agency.'
- 13.7 Proposed subsection 29(8) defines a 'relevant agency' as a government sector agency, or another entity prescribed by regulations.
- 13.8 Proposed subsection 29(4) defines 'relevant information' as (a) a complaint about a contravention of the Charter, (b) matters relating to systemic issues relating to victims of crime, and (c) matters prescribed by the regulations.
- 13.9 Under proposed subsections 29(5) and (6), parties to an information sharing arrangement may request, receive and disclose relevant information 'despite another Act or law... to the extent the information is reasonably necessary to assist in the exercise of the functions of the Commissioner under this Act or the functions of the relevant agency.'

The proposed *Victims Rights and Victims of Crime Act 2025* would empower the Commissioner to enter into information sharing arrangements with relevant agencies, provided the information is relevant and the extent of the information sharing is reasonably necessary to assist in the functions of the Commissioner or the agency. A 'relevant agency' is defined at proposed subsection 29(8) as a government sector agency or another entity prescribed by regulations. 'Relevant information', defined at subsection 29(4), also includes matters prescribed by regulations.

This may impact a person's right to privacy, as their information could be shared without their consent and despite any other law protecting their personal information. Further, the meanings of 'relevant information' and 'relevant agencies' are not confined by legislation and may be supplemented by regulation.

The Committee generally prefers substantive matters to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. The Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, these matters may impact the individual rights and liberties of a particularly vulnerable group (victims of crime). In the circumstances, the Committee refers this matter to Parliament for its consideration.

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

#### *Wide regulation making powers including retrospective regulations*

- 13.10 The proposed Act would create a number of regulation making powers, including:

- Subsection 35(b), empowering the Governor to make regulations about matters 'necessary or convenient to be prescribed for carrying out or giving effect to this Act.'
- Subsection 21(b), permitting the Commissioner to delegate their functions to a person or class of persons prescribed by regulations.
- Schedule 1, Part 1, allowing regulations made under the Act to retrospectively commence if they are of a savings or transitional nature. Such regulations would automatically expire after two years, and could be made within two years of the commencement of the Act or any subsequent legislative amendments to the Act. However, subsection 1(65) clarifies that a savings or transitional provision taking effect before its publication does not affect the rights of a person existing before the publication in a way prejudicial to that person.

**The proposed *Victims Rights and Victims of Crime Act 2025* would create a number of regulation making powers. Proposed subsection 35(b) would empower the Governor to make regulations about matters that are 'necessary or convenient to be prescribed for carrying out or giving effect to the Act.' Subsection 21(b) would also permit the Commissioner to delegate their functions to a 'person of a class prescribed by the regulations.' Further, Schedule 1 would allow regulations to retrospectively commence if they are 'provisions of a savings or transitional nature'. These provisions would automatically expire after two years, and could be made within two years of the commencement of the Act or any subsequent legislative amendments to the Act.**

**With respect to proposed subsections 35(b) and 21(b), the Committee generally prefers substantive matters to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. This includes the classes of persons who may be delegated statutory functions.**

**Regarding proposed Schedule 1, Part 1, the Committee notes that retrospectively enacted regulations conflict with section 39(2A) of the *Interpretation Act 1987*. Under this section, provisions of statutory rules commence on the day they are published on the NSW legislation website or at a later specified date. The Bill's provisions enabling the retrospective commencement of regulations may make it difficult for individuals to ascertain the commencement date of regulations made under the Bill and, therefore, the laws that apply to them. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.**

**However, the Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. With regard to Schedule 1, Part 1, the Committee acknowledges that it may be more administratively efficient to amend defined transitional periods within the Act by regulation. Further, it acknowledges that savings or transitional provisions taking effect before publication would not affect the rights of a person in a way that is prejudicial to that person. In the circumstances, the Committee makes no further comment.**

*Commencement by proclamation*

- 13.11 Clause 2 provides that the Act commences on a day or days to be appointed by proclamation.
- 13.12 In her second reading speech, the Minister explained that 'the commencement period will allow sufficient time for implementation, including appointing the Victims of Crime Commissioner and establishing the Commissioner's office.'

**The proposed *Victims Rights and Victims of Crime Act 2025* would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons.**

**However, the Committee acknowledges that the proposed commencement by proclamation is intended to allow sufficient time for the appointment of the new Victims of Crime Commissioner and the establishment of the Commissioner's office. In the circumstances, the Committee makes no further comment.**

## 14. Workers Compensation Amendment (Firefighters' Diseases) Bill 2025\*

Date introduced	6 August 2025
House introduced	Legislative Council
Member with carriage	The Hon. Damien Tudehope MLC
*Private Members Bill	

### Purpose and description

14.1 The object of the Bill is to amend the *Workers Compensation Act 1987* (the **Act**) as follows:

- (a) to specify further kinds of cancer as diseases to which presumptive rights to compensation for firefighters apply and to specify the corresponding qualifying service periods
- (b) to reduce the qualifying service period for primary site oesophageal cancer from 25 years to 15 years.

### Background

14.2 During his second reading speech, the Hon. Damien Tudehope MLC explained that the Act was amended in 2018 'to recognise the increased risk of 12 site-specific cancers faced by firefighters'. In doing so, the Act created a presumption that:

employment as a firefighter – or in the case of volunteer firefighters, fighting a bushfire – was a contributing factor to the firefighter contracting any of the 12 cancers set out in the new schedule 4 to the Workers Compensation Act 1987.

14.3 For each specific cancer in that list, a corresponding qualifying service period was set based on the available evidence at that time, ranging from five years to 15 years for most cancers, with a qualifying service period of 25 years for primary site oesophageal cancer.

14.4 The Bill proposes to expand the definition of firefighters' diseases under the Act by inserting additional diseases into Schedule 4 of the Act. Schedule 4 lists the period of time for which a firefighter must have served before they are entitled to claim compensation for each disease.

14.5 The Bill also proposes to insert a new part into Schedule 6 to expand the compensation eligibility criteria for additional diseases inserted by the Bill and processes for claiming compensation for specific diseases. It provides that an eligibility provision extends to a disease contracted by a firefighter before the additional disease was added to the Act if the disease was first diagnosed by a medical practitioner or the firefighter died from the disease.

- 14.6 Additionally, the Bill seeks to reduce the 'anomalous' qualifying service period for primary oesophageal cancer from 25 years to 15 years, in line with updated evidence and legislative changes in other jurisdictions.

### 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*.**

# 15. Workers Compensation Amendment (Reform and Modernisation) Bill 2025

Date introduced	6 August 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Sophie Cotsis MP

## Purpose and description

- 15.1 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 *Personal Injury Commission Act 2020*, the *State Insurance and Care Governance Act 2015* and other legislation
  - (c) to amend the *Work Health and Safety Act 2011* to provide for duties of persons conducting businesses or undertakings involving digital work systems.

## Background

- 15.2 The Bill proposes significant amendments to the Act and other related legislation to modify the framework for NSW workers compensation schemes, including by adjusting the eligibility criteria for workplace compensation for psychological injuries.
- 15.3 In her second reading speech, the Hon. Sophie Cotsis MP, Minister for Industrial Relations and for Work Health and Safety, explained that the Bill would 'put the State's workers compensation scheme in a sustainable position' and 'is a key part of the Government's attempt to align the State's workers compensation, industrial relations and work health and safety systems'.
- 15.4 The Minister outlined the key amendments proposed by the Bill, including:



- introducing new definitions and objective tests to determine whether a psychological injury is compensable
- establishing an accelerated process to assess claims involving excessive work demands, bullying and racial and sexual harassment, including consideration of previous contraventions of the *Work Health and Safety Act 2011* by employers
- applying a more objective standard to the employer defence for work-related psychological injuries, including for the defence of reasonable management
- creating a new role for the NSW Industrial Relations Commission
- ensuring workers with severe psychological injuries continue to receive lifetime medical treatment and weekly payments until retirement
- limiting weekly payments to a maximum of 130 weeks for all other workers with a primary psychological injury
- introducing a stepped increase to the permanent impairment threshold required to access ongoing weekly payments, work injury damages, permanent impairment lump sums and commutations
- incorporating a future statutory review of the Bill with detailed work requirements.

15.5 The Committee notes that the Bill's provisions are substantially similar to the provisions of the *Workers Compensation Legislation Amendment Bill 2025*, which the Minister introduced in the Legislative Assembly on 27 May 2025. That bill passed the Legislative Assembly, with amendments, on 3 June 2025, and was referred to the Legislative Council's Public Accountability and Works Committee on 5 June 2025 for inquiry and report. It is currently awaiting its second reading debate in the Legislative Council.

15.6 The Minister explained that the current Bill 'revises, updates and improves upon' the earlier bill by incorporating amendments that were agreed to by the Legislative Assembly. The Bill also makes technical changes to remove potential ambiguity.

15.7 Key changes that are reflected in the revised Bill include:

- a revised test for access to medical benefits from 'reasonably necessary' to 'reasonable and necessary'
- the exclusion of treatment for dust diseases, which will continue to be assessed under the existing rules
- the introduction of a new duty in the *Work Health and Safety Act 2011* for persons conducting a business or undertaking that use a digital work system
- strengthened powers relating to the inspection of digital work systems.

15.8 In relation to the new digital work systems provisions, the Minister explained:

Together, these new powers and duties will help to ensure that existing worker rights and protections are appropriately balanced with workplaces embracing new technologies to drive innovation and productivity. While advances in AI and digital services will drive rapid change both in and out of the workplace over the coming years, these changes must not come at the cost of the health and safety of workers.

- 15.9 The Committee reported on the *Workers Compensation Legislation Amendment Bill 2025* in Digest 31/58, and the comments in this report are consistent with the Committee's previous comments. No additional substantial issues have been identified with the provisions in the current Bill.

### 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*

- 15.10 The Bill proposes to amend the Act by introducing 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 consult with any medical or health care professional who is treating or has treated the worker, to call for the production of the worker's medical records, and to personally examine the worker.
- 15.11 Proposed subsection 153N(2) further provides for the suspension of a worker's right to recover compensation and weekly payments if they decline an examination by the assessor when required to do so, or if they obstruct the examination in any way.

**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 consult with the worker's treating practitioners, to call for the production of the worker's medical records, and to personally examine the worker. If a worker 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 an avenue to review the suspension of a worker's compensation or provide a justifiable basis on which a worker could refuse to undergo an examination or obstruct an examination. Further, 'obstruct' is not defined, which could lead to 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, where an individual's personal medical information and bodily autonomy are concerned, their right to procedural fairness by way of a review process is paramount. 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*

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

- applications made by the State Insurance Regulatory Authority (the **Authority**) for a principal assessment in accordance with regulations (proposed section 153K(2))
- circumstances in which a further principal assessment may be made (proposed section 153Q)
- cases of liability for injury that can be commuted to a lump sum (proposed section 87EA(2)(a))
- 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)
- procedures for insurers to follow when making work capacity decisions and decisions about pre-injury average weekly earnings (proposed section 44BB)
- 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 2020*).

**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*

15.13 The Bill proposes to insert a regulation-making power into the *Workplace Injury Management and Workers Compensation Act 1998* 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 proposes to insert 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*

15.14 Clause 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*

15.15 The Bill proposes to make a number of amendments to the Act and the *Workplace Injury Management and Workers Compensation Act 1998* to broaden the matters that may be included in the Workers Compensation Guidelines (the **Guidelines**). Throughout the Bill, various provisions refer to the Guidelines and specify the matters they may address or incorporate.

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

- the management of claims related to an agreement about disputed death benefits lodged with the Commission (proposed section 32AC(8) of the Act)
- the process for assessing permanent impairment (proposed section 153B(1) of the Act)
- how deductions are determined for previous injuries or pre-existing conditions (proposed section 153C(4) of the Act)

- factors to be considered in assessing permanent impairment (proposed section 153K(3)(c) of the Act)
- criteria for determining assessors of permanent impairment (proposed section 153M(1) of the Act)
- matters to be provided by an insurer about a person's medical record for a principal assessment (proposed section 153N(3) of the Act)
- procedures and requirements for disputing claims and reviewing decisions (proposed section 280AE(7) of the *Workplace Injury Management and Workers Compensation Act*).

**The Bill would amend 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 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 without comment

# Regulations without comment

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

## 1. Residential Tenancies Amendment (Termination Notice for Significant Renovations or Repairs) Regulation 2025

The object of the Regulation is to alter the supporting documents or information required to be given by a landlord when giving a termination notice on the ground that the residential premises will be subject to works for significant renovations or repairs.

The Regulation repeals previous provisions introduced under the Residential Tenancies Amendment Regulation 2025, which required a landlord to provide a tenant with at least one supporting document (in addition to the landlord's statement) to support a termination notice. The Committee reported on the Residential Tenancies Amendment Regulation 2025 in *Legislation Review Digest No. 32/58* (24 June 2025), noting that some of the provisions raised issues under section 9 of the *Legislation Review Act 1987*.

This Regulation was subject to a notice of motion to disallow the instrument in the Legislative Assembly on 6 August 2025. Under s 9(1)(a) of the *Legislation Review Act 1987*, the Committee is required to consider regulations only while they are subject to disallowance. The Committee agreed to consider the Regulation, notwithstanding its potential disallowance, in this Digest. However, the Committee notes that the disallowance motion was negated in the Legislative Assembly and is yet to be moved in the Legislative Council.

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

## 2. Public Health (Tobacco) Amendment (Tobacco Licensing Scheme) Regulation 2025

The object of the Regulation is to amend the Public Health (Tobacco) Regulation 2022 consequent on amendments to the *Public Health (Tobacco) Act 2008* (the **Act**) made by the *Public Health (Tobacco) Amendment Act 2024* and the retail and wholesale licensing scheme to be established by the *Public Health (Tobacco) Amendment Act (No 2) 2024*.

The Regulation:

- (a) inserts proposed Part 2A into the Public Health (Tobacco) Regulation 2022 to:
  - (i) prescribe the fee payable for an application for the grant or renewal of a retail or wholesale licence and the annual fee for the licence
  - (ii) require applicants and relevant persons to consent to criminal record checks
  - (iii) facilitate the sharing of documents and information by and with law enforcement and other government sector agencies that hold relevant information about applicants for licences or are involved in the administration and management of the scheme
  - (iv) prevent licensed wholesalers from selling tobacco products or non-tobacco smoking products by wholesale to persons who are not licensed retailers or licensed wholesalers

- (v) introduce standard licence conditions relating to the display of licences on premises and when selling or obtaining tobacco products or non-tobacco smoking products, and the giving, keeping and production of wholesale invoices
- (vi) enable the Secretary to revoke a retail licence for a licensed retail outlet if satisfied the retailer is no longer conducting business at the retail premises specified in the licence
- (b) increases the penalty notice amounts for certain offences under the Act
- (c) omits obsolete references to e-cigarettes as a result of changes made by the *Public Health (Tobacco) Amendment Act 2024*.

The Regulation is made under the *Public Health (Tobacco) Act 2008* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

### 3. [Water Management \(General\) Amendment \(Exemptions for Infrastructure\) Regulation 2025](#)

The object of the Regulation is to provide exemptions from the requirement to hold an access licence for the taking of water from a water source in the following circumstances and to deal with other consequential matters:

- (a) until 30 June 2029, for the taking of water from coastal areas in connection with the construction, other than maintenance, of infrastructure,
- (b) for the taking of water by public authorities in connection with the construction of essential infrastructure,
- (c) for the taking of water by persons in connection with the construction of private water industry infrastructure permitted under the *Water Industry Competition Act 2006*.

The Regulation is made under the *Water Management Act 2000* and amends the *Water Management (General) Regulation 2018*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

### 4. [Water Management \(General\) Amendment \(Specific Purpose Access License\) Regulation 2025](#)

The object of the Regulation is to provide for the application by Riverina Water County Council for a specific purpose access licence allowing access to an alternate water supply for the purposes of town water supply in the event of PFAS contamination of the groundwater used for the Wagga Wagga town water supply.

The Regulation is made under the *Water Management Act 2000*, including sections 57(2) and 61(1)(a). It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

### 5. [Dams Safety Amendment \(Levy\) Regulation 2025](#)

The object of the Regulation is to provide for the payment by owners of declared dams of the dams safety levy to meet the costs incurred in the administration of the *Dams Safety Act 2015* relating to declared dams.



The Regulation is made under the *Dams Safety Act 2015* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

6. [Automatic Mutual Recognition Legislation Amendment \(Compensation Fund\) Regulation 2025](#)

The objects of the Regulation are as follows:

- (a) to ensure contributions to the Compensation Fund, as required to be paid from time to time under the *Conveyancers Licensing Act 2003*, the *Motor Dealers and Repairers Act 2013* and the *Property and Stock Agents Act 2002*, are payable by all licence holders, including interstate licence holders
- (b) to make other minor amendments consequent on the enactment of the *Automatic Mutual Recognition Legislation Amendment Act 2025*.

The Regulation is made under the *Conveyancers Licensing Act 2003*, the *Motor Dealers and Repairers Act 2013*, and the *Property and Stock Agents Act 2002*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

7. [Crimes \(Administration of Sentences\) Amendment \(Reports by Community Corrections Officer\) Regulation 2025](#)

The object of the Regulation is to amend the Crimes (Administration of Sentences) Regulation 2014 to remove the requirement for a report prepared by a community corrections officer, in relation to the granting of parole for an offender, to address whether or not the officer recommends that a parole order be made for the offender.

The Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 135 and 271, the general regulation-making power. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

8. [Education and Care Services National Amendment Regulations 2025](#)

The Regulations amend the Education and Care Services National Regulations and National Quality Standard. The key amendments include:

- (a) inserting new definitions
- (b) replacing provisions regarding policies for child safety and use of digital technologies
- (c) inserting requirements to notify certain information to Regulatory Authority within a certain time
- (d) modifying clauses relating to the National Quality Standard.

This Regulations are made under sections 301 and 304 of the Education and Care Services National Law 2010 and do not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

9. [Government Information \(Public Access\) Amendment \(Crown Solicitor's Office\) Regulation 2025](#)

The object of the Regulation is to amend the Government Information (Public Access) Regulation 2018 to no longer provide that the Crown Solicitor's Office is taken to be part

of and included in the Department of Justice for the purposes of the *Government Information (Public Access) Act 2009*. As a result, the Act will apply to the Crown Solicitor's Office in the same way it applies to other Public Service agencies.

The Regulation is made under the *Government Information (Public Access) Act 2009* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

10. [Heavy Vehicle \(Adoption of National Law\) Amendment \(Infringement Notice Penalties\) Regulation 2025](#)

The object of the Regulation is to increase the amounts payable under infringement notices for offences under the Heavy Vehicle National Law (NSW), Heavy Vehicle (Fatigue Management) National Regulation (NSW) and Heavy Vehicle (Mass, Dimension and Loading) National Regulation (NSW) to ensure the amounts are consistent nationally.

The Regulation is made under the *Heavy Vehicle (Adoption of National Law) Act 2013* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

11. [NSW Admission Board Amendment \(Fees\) Rule 2025](#)

The object of the Rule is to amend the NSW Admission Board Rules 2015 to increase the fees payable for the services provided by the Board, to add a definition of 'PLT' and to correct an incorrect reference to the Practical Training Exemption Sub-Committee as the 'PLT Sub-Committee' in the Third Schedule.

The Rule is made under the *Legal Profession Uniform Law Application Act 2014* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

12. [Public Notaries Appointment Amendment \(Fees\) Rule 2025](#)

The object of the Rule is to amend the Public Notaries Appointment Rules to increase the fees payable for the services provided by the Legal Profession Admission Board in relation to the appointment of public notaries and certificates of appointment of public notaries.

The Rule is made under the *Public Notaries Act 1997* and 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

## Meeting no. 35

**TIME & DATE: 3.00PM, 8 SEPTEMBER 2025**

**LOCATION: ROOM 1136 AND VIA VIDEOCONFERENCE**

### MEMBERS PRESENT

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

### APOLOGIES

Ms Davis and Ms Munro.

### OFFICERS PRESENT

Rohan Tyler, Carly McKenna, Joan Douce, Natasha Moir and Nicolle Gill.

### AGENDA ITEM

#### 1. Confirmation of minutes

Resolved, on the motion of Mr Murphy: That the minutes of the meeting of 4 August 2025 be confirmed.

#### 2. \*\*\*

#### 3. Consideration of bills with comment for Legislation Review Digest 34/58

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

- a) Child Protection (Working with Children) and Other Legislation Amendment Bill 2025
- b) Crimes Amendment (Deepfake Sexual Material) Bill 2025
- c) Crimes Amendment (Intimate Image and Audio Material) Bill 2025
- d) Electricity Infrastructure Investment Amendment (Priority Network Projects) Bill 2025
- e) Environmental Legislation Amendment Bill 2025
- f) Public Health (Tobacco) Amendment (Illicit Tobacco) Bill 2025
- g) Tobacco Legislation (Closure Orders) Amendment Bill 2025
- h) Victims Rights and Victims of Crime Commissioner Bill 2025
- i) Workers Compensation Amendment (Reform and Modernisation) Bill 2025.

#### **4. Consideration of bills without comment for Legislation Review Digest 34/58**

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

- a) Crimes and Roads Legislation Amendment (Obstruction Offences Repeals) Bill 2025
- b) Crimes Legislation Amendment (War Memorial Offences) Bill 2025
- c) Kosciuszko Wild Horse Heritage Repeal Bill 2025
- d) Parliamentary Remuneration Amendment (Basic Salary) Bill 2025
- e) Summary Offences Amendment (Limitation on Offensive Language) Bill 2025
- f) Workers Compensation Amendment (Firefighters' Diseases) Bill 2025.

#### **5. Consideration of regulations without comment for Legislation Review Digest 34/58**

Resolved, on the motion of Mr Layzell:

- That the Committee note its agreement, via email, on Tuesday 5 August 2025 to consider the Residential Tenancies Amendment (Termination Notice for Significant Renovations or Repairs) Regulation 2025 as part of Legislation Review Digest No. 34/58.
- That the Committee adopts the regulations without comment as Part Two to Digest No. 34/58.

#### **6. Legislation Review Digest 34/58**

Resolved, on the motion of Ms Higginson:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts Legislation Review Digest No. 34/58 and that it be signed by the Chair and presented to the House.

#### **7. Regulations to be reviewed**

Resolved, on the motion of Mr Hagarty: That the Committee consider all regulations that are currently subject to disallowance (tabled 24 June 2025 and 5 August 2025), even if the relevant regulations have been disallowed by the time the next Digest is adopted.

#### **8. General Business**

Resolved, on the motion of Ms Higginson: That, from 10 November 2025, and for the remainder of 2025, the Committee defers reviewing private Members' bills introduced on sitting Fridays of back-to-back sitting weeks to the following Digest, unless the Chair determines that a private Members' bill should be urgently reported on.

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#### **9. Next meeting**

The meeting adjourned at 3.06pm until Monday 15 September 2025 at 3.00pm.