Legislation Review Committee

PARLIAMENT OF
NEW SOUTH WALES

Legislation Review Digest

Digest No. 37/58 – 21 October 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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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. 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2025

Issue Identified	Conclusion of Committee
Commencement by proclamation	No further comment

2. Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025

Issue Identified	Conclusion of Committee
Right to presumption of innocence - lower standard of proof for correctional centre offences	Referred
Right to a fair trial and procedural fairness – effective retrospective enactment of lowered standard of evidence	Referred

3. Crimes Legislation Amendment (Domestic Violence and Sexual Offences) Bill 2025

No issues identified

4. Energy Legislation Amendment Bill 2025

Issue Identified	Conclusion of Committee
Continuing absolute liability offences	No further comment
Henry VIII clause permitting regulations to modify application of legislation	No further comment
Wide delegation of powers to unspecified persons	Referred

5. Gaming Machines Amendment (Mandatory Shutdown Period) Bill 2025*

No issues identified

6. Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

Issue Identified	Conclusion of Committee
Lack of notice and hearing requirements impacting right to procedural fairness	Referred
Additional punishment for the same conduct	No further comment
Power of Minister to transfer existing proceedings	Referred
Commencement by proclamation	No further comment

7. Retail Leases Amendment (Review) Bill 2025

Issue Identified	Conclusion of Committee
Absolute liability offences	No further comment
Commencement by proclamation	No further comment

8. Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Bill 2025

Issue Identified	Conclusion of Committee
Continuing strict liability offences	No further comment
Absolute liability offences	No further comment
Significant matters deferred to regulations – offences	Referred
Significant matters deferred to regulations – definition of 'micromobility vehicle'	No further comment
Commencement by proclamation	No further comment

9. Roads Legislation Amendment (NSW Motorways) Bill 2025

Issue Identified	Conclusion of Committee
Wide delegation of functions to unknown class of persons	No further comment

10. Voluntary Assisted Dying Amendment (Residential Facilities) Bill 2025*

Issue Identified	Conclusion of Committee
Refusal of access by a medical practitioner impacting on an individual's right to health	Referred

PART TWO – REGULATIONS WITH COMMENT

1. Co-operatives (New South Wales) Regulation 2025

Issue Identified	Conclusion of Committee
Henry VIII provision	No further comment

2. Registered Clubs Regulation 2025

Issue Identified	Conclusion of Committee
Absolute and strict liability offences	No further comment

3. Summary Offences Regulation 2025

Issue Identified	Conclusion of Committee
Henry VIII clause	No further comment

4. Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025

Issue Identified	Conclusion of Committee
Henry VIII clause	No further comment

Summary of Conclusions

PART ONE – BILLS

1. 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2025

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

Commencement by proclamation

Some clauses of 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. However the Committee acknowledges that the Bill forms part of the Government's broader 24-Hour Economy Strategy, and that a flexible start date may benefit the effective implementation of this policy objective. In the circumstances, the Committee makes no further comment.

2. Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025

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

Right to presumption of innocence - lower standard of proof for correctional centre offences

The Bill would amend the *Crimes (Administration of Sentences) Act 1999* to lower the standard of proof for correctional centre offences from the higher criminal standard of 'beyond reasonable doubt' to the lower civil standard of 'on the balance of probabilities'. These amendments would allow the governor of a correctional centre to determine that an inmate is guilty of an offence, based on this lower standard. An inmate found guilty of a correctional centre offence can be sentenced to up to 7 days of solitary confinement, among other penalties. The Bill may therefore infringe on an accused person's right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights. The presumption of innocence applies to criminal charges and guarantees that guilt cannot be presumed until the charge is proved beyond reasonable doubt.

The Committee acknowledges that correctional centre offences are disciplinary offences rather than criminal offences, and that some comparable jurisdictions do not apply the criminal standard of proof to these offences. The Committee also notes that the Bill seeks to rectify the current misapplication of the law by Corrective Services NSW staff due to lack of education and training.

However, the Committee notes that where an inmate is found guilty of a correctional centre offence, the governor can impose a penalty of solitary confinement. This is a significant penalty that may be more appropriately applied in criminal contexts, where a higher standard of proof is required for a finding of guilt. The Committee also notes the NSW Ombudsman's advice that a failure to routinely apply the criminal standard should not be addressed by lowering that standard through legislation, as this may adversely impact upon the rights of individual inmates. For these reasons, the Committee refers this issue to Parliament for consideration.

Right to a fair trial and procedural fairness – effective retrospective enactment of lowered standard of evidence

The Bill seeks to insert savings and transitional provisions that would apply the lower standard of evidence to current charges against inmates where those charges are not finally determined by a governor. The effect is a retrospective application of the civil standard of proof to charges against an inmate that were laid at a time when the inmate could reasonably assume their guilt would be determined on the basis of the higher criminal standard.

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact 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 acknowledges that this retrospective application may be intended to resolve live issues, including the appropriateness of applying a criminal standard to civil proceedings, and recent findings that Corrective Services NSW have been mistakenly applying the incorrect standard of proof. However, there is an inherent unjustness to changing the standard of evidence in a government agency's favour, midway through the determination of that agency's charge against an inmate who is already naturally disadvantaged due to their incarceration. For this reason, the Committee refers this issue to Parliament for consideration.

3. Crimes Legislation Amendment (Domestic Violence and Sexual Offences) Bill 2025

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

4. Energy Legislation Amendment Bill 2025

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

Continuing absolute liability offences

The Bill seeks to amend the *Electricity Supply Act 1995* to allow the Independent Pricing and Regulatory Tribunal to direct an embedded network seller to comply with a price determination if they are satisfied that the seller is failing to comply with the price determination. Proposed section 91D(2) provides that a seller must not fail to comply with the direction. The offence is subject to a base penalty of $220,000 for corporations and $11,000 for individuals, as well as additional penalties for each day that the offence continues.

The Bill would, therefore, introduce an absolute liability offence with continuous penalties. 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. In this case, this is exacerbated by the additional penalties that apply for each day that the offence continues, without fault being proven.

However, the Committee acknowledges that absolute liability offences are not uncommon in regulatory frameworks to encourage compliance. In this case, compliance with the electricity network regulatory framework is intended to ensure the efficient and sustainable operation of the electricity network. The Committee also notes that the offences would only carry a monetary penalty and not a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Henry VIII clause permitting regulations to modify application of legislation

The Bill seeks to insert a new regulation-making power into the *Electricity Infrastructure Investment Act 2020* and the *Electricity Supply Act 1995* to enable the regulations to modify the application of, or disapply a provision of the National Electricity (NSW) Law (NEL) and the National Electricity Rules (NER). It also proposes to insert a regulation-making power into the *National Electricity (New South Wales) Act 1997* to allow the regulations to modify the operation of the NER.

The provisions may, therefore, amount to Henry VIII clauses, in that they allow the Executive to amend the operation of the NER and NEL 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.

However, the Committee notes that regulations made under these provisions are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. Additionally, the Committee notes that the provisions are intended to provide flexibility and allow for the timely modification of the NER and NEL in accordance with NSW electricity network priorities. They are also limited to what is reasonably necessary to give effect to regulations made under the relevant legislation. In the circumstances, the Committee makes no further comment.

Wide delegation of powers to unspecified persons

The Bill would amend the *Electricity Infrastructure Investment Act 2020* (EII Act) to expand the existing delegation powers under section 71. Proposed subsections 71(5) and (6) would allow the Secretary to subdelegate a function delegated by the Minister, and delegate the Secretary's functions under the EII Act, to 'a person, or a person of a class, prescribed by the regulations.'

The Bill may, therefore, provide for the wide delegation of statutory functions to a class of unknown persons. This may enable private individuals to be delegated functions under the EII Act that 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 Secretary of the Department could allow for more flexibility in the administration and operation of the electricity regulatory framework. It also recognises that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.

However, the Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity as well as greater oversight of the exercise of those executive and public functions. For this reason, the Committee refers the matter to Parliament for consideration.

5. Gaming Machines Amendment (Mandatory Shutdown Period) Bill 2025*

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

6. Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

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

Lack of notice and hearing requirements impacting right to procedural fairness

The Bill seeks to amend the *Local Government Act 1993* to enable public interest proceedings to be initiated against a current or former councillor for a serious breach of the law or code of conduct. Proposed subsections 438HAA(2) and 440IA(2) provide that, following the receipt of a departmental report, the Departmental Chief Executive would not be required to give a notice to the councillor concerned or to afford them an opportunity to be heard in relation to the contents of the report or the commencement of the proceedings. The Bill may therefore unduly trespass on an individual's right to procedural fairness.

The Committee acknowledges that the amendment may be intended to ensure that serious matters of public interest are addressed promptly. The Committee also recognises that the Bill would not prevent the accused councillor from presenting their case in court. However, the Committee remains concerned that the Bill would undermine the individual's rights to a fair process, as it would deny the councillor the opportunity to respond to adverse material before the proceedings commence. For this reason, the Committee refers this matter to Parliament for consideration.

Additional punishment for the same conduct

The Bill would insert section 733F and 733H into the *Local Government Act 1993.* Proposed section 733F clarifies that the Land and Environment Court may make a disciplinary order in public interest proceedings where the councillor has already been convicted of a criminal offence arising from substantially the same conduct. Proposed section 733H also clarifies that a councillor who has been issued with a disciplinary order in public interest proceedings may also be prosecuted in criminal court for substantially the same conduct. This means that a person may be punished for the same conduct in both criminal proceedings and public interest proceedings.

The Committee generally comments on provisions that allow additional punishment of an individual for the same conduct, as this may be considered excessive. However, the Committee acknowledges that the new provisions would only apply to serious breaches of the law or code of conduct. The Committee further recognises that the amendments are intended to act as a strong deterrent and ensure that the integrity of local government is upheld. In the circumstances, the Committee makes no further comment.

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

Power of Minister to transfer existing proceedings

The Bill proposes to amend Schedule 8 of the *Local Government Act 1993* by inserting savings and transitional provisions in relation to existing proceedings. Although subclause (2) provides that pending applications submitted before the new amendment has commenced would continue to be considered under the *Civil and Administrative Tribunal Act 2013*, subclause (3) would allow the Minister for Local Government to make an order to transfer proceedings to the Land and Environment Court. This would allow the Minister to apply the proposed amendments retrospectively.

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 also notes that the powers conferred on the Minister to intervene and transfer proceedings are broad and do not clarify the circumstances in which the Minister may intervene and order a transfer of proceedings. For these reasons, the Committee refers this matter to Parliament for consideration.

Commencement by proclamation

The Bill would commence on a day to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions, 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 commencement by proclamation may be intended to facilitate greater flexibility in making the administrative changes necessary to implement the transfer of jurisdictions between the relevant courts. For this reason, the Committee makes no further comment.

7. Retail Leases Amendment (Review) Bill 2025

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

Absolute liability offences

The Bill proposes to establish a number of new absolute liability offences under sections 9 and 11 of the *Retail Leases Act 1994*. These provisions would require the prospective lessor and lessee to provide certain documents and statements at the negotiation stage. Failure to comply with these requirements would carry a maximum penalty of a $5,500 fine (50 penalty units). Proposed section 9(4) also provides that a person acting on behalf of a prospective lessor may be held vicariously liable.

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 frameworks to encourage compliance. In this case, compliance with the regulatory regime is intended to ensure public confidence in the retail leasing system. The Committee also notes that the offences would only carry a monetary penalty and not a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Commencement by proclamation

Clause 2 of the Bill stipulates that it 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. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

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

8. Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Bill 2025

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

Continuing strict liability offences

The Bill seeks to insert section 148ZZD into the *Road Transport Act 2013.* This section would prohibit a person from contravening a removal order without reasonable excuse. Failure to comply with this would carry a maximum penalty of a $55,000 fine (500 penalty units) and a further $5,500 fine (50 penalty units) for each day the offence continues.

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. In this case, this is exacerbated by the additional penalties that apply for each day that the offence continues, without fault being proven.

However, the Committee acknowledges that the Bill is intended to deter offending behaviour and, ultimately, to uphold public safety by ensuring the appropriate regulation of micromobility vehicles. In addition, the section is intended to apply to operators of micromobility vehicles, rather than individuals, and the applicable penalty is monetary only. For these reasons, the Committee makes no further comment.

Absolute liability offences

The Bill proposes to establish a number of new absolute liability offences under the *Road Transport Act 2013*. These provisions, contained in section 148ZA, seek to impose requirements on the operation of micromobility vehicle sharing services. Failure to comply with the requirements would carry maximum penalty of a $55,000 fine (500 penalty units).

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 frameworks to encourage compliance. In this case, compliance with the regulatory regime is intended to ensure public safety by placing stricter regulations on the micromobility vehicle sharing service operators. The Committee also notes that the offences would carry a monetary, rather than a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Significant matters deferred to regulations – offences

The Bill seeks to insert sections 148ZO and 148ZT into the *Road Transport Act 2013* to allow regulations to prescribe automatic suspension and automatic revocation offences for different categories of approved operators, and to stipulate the circumstances in which an offence is or is not an automatic suspension or revocation offence.

The Committee generally prefers that substantive matters that may impact an individual's rights, liberties or obligations under law are set out in primary legislation to ensure an appropriate level of parliamentary scrutiny.

The Committee acknowledges that delegating the power to create offences to regulations may be intended to build more flexibility into the regulatory framework. However, the Committee notes that what amounts to an automatic suspension or automatic revocation offence may significantly impact a person's rights, liberties and obligations. For these reasons, the Committee refers the matter to Parliament for consideration.

Significant matters deferred to regulations – definition of 'micromobility vehicle'

The Bill seeks to insert section 148X into the *Road Transport Act 2013*, which would provide a general regulation-making power to define 'micromobility vehicle'. This would allow the regulations to define a significant aspect of the regulatory framework that the Bill is seeking to impose.

The Committee generally prefers substantive matters such as these to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. This is particularly important where the matters deferred to the regulations constitute significant aspects of the regulatory framework.

However, the Committee recognises that the provisions may be intended to build more flexibility into the regulatory framework and allow the appropriate authority to better respond to developments in micromobility technology. 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.

Commencement by proclamation

Clause 2(2) of the Bill stipulates that parts of the Bill, namely section 148ZA in Schedule 1[2], Schedule 2, Schedule 3, Schedule 5[2], section 128B in Schedule 5[3] and Schedule 5[4], 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. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

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

9. Roads Legislation Amendment (NSW Motorways) Bill 2025

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

Wide delegation of functions to unknown class of persons

The Bill seeks to amend the *Roads Act 1993* by inserting clause 11(2)(b) into Schedule 1 to enable a class of persons prescribed by regulations to exercise the functions of an authorised officer under the Act. It also proposes to insert section 39L(4) into the *Transport Administration Act 1988* to enable the Customer Advocate to delegate their functions to a class of persons prescribed by regulations.

The Bill would therefore provide for the wide delegation of statutory functions to classes of unknown persons. This may enable private individuals to be delegated functions and exercise powers under the relevant Acts that may be expected to be performed by public officials or authorities. The Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity as well as greater oversight of the exercise of those executive and public functions.

The Committee acknowledges that allowing regulations to prescribe who may exercise the powers of an authorised person, or be delegated functions by the Customer Advocate, may allow for more flexibility in the administration of the regulatory framework that supports NSW Motorways to operate efficiently. The Committee also recognises 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.

10. Voluntary Assisted Dying Amendment (Residential Facilities) Bill 2025*

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

Refusal of access by a medical practitioner impacting on an individual's right to health

The Bill would amend the *Voluntary Assisted Dying Act 2022* (the Act) so that residential facilities may refuse to allow medical practitioners to attend to a resident at the facility, where that resident has requested their presence for a purpose related to voluntary assisted dying. This is currently a requirement under the Act. The Bill may therefore infringe on an individual's right to health, which includes access to medical care and medical information, as contained in Article 12(1) of the International Covenant on Economic, Social and Cultural Rights.

The Committee acknowledges that the Bill is intended to allow faith-based aged care facilities to conscientiously object to voluntary assisted dying taking place on their premises. The Committee also acknowledges that the Bill would still require residential facilities that refuse access to a medical practitioner to take reasonable steps to facilitate a resident's travel to and from another place where they can access a medical practitioner for this purpose.

However, the Committee notes that a medical practitioner is required at multiple stages of the voluntary assisted dying process, and that by refusing a medical practitioner access to a patient, the Bill would unduly restrict a vulnerable cohort of people from accessing relevant health care. The Bill would not only prevent a medical practitioner from attending to a resident to administer a voluntary assisted dying substance, it would also prevent them from attending the facility for the purpose of providing information, recording decisions, and making assessments related to voluntary assisted dying. This may unduly impact on a person's right to health care, and the right to make informed decisions about their health care, beyond what is necessary to balance other rights and interests. For these reasons, the Committee refers this matter to Parliament for consideration.

PART TWO – REGULATIONS WITH COMMENT

1. Co-operatives (New South Wales) Regulation 2025

Objective could have been achieved by alternative and more effective means: s 9(1)(b)(v) of the LRA

Henry VIII provision

Section 7 of the Regulation provides exemptions to the restrictions on registered names and trading names imposed by sections 220(4) and 225(1) of the *Co-operatives (Adoption of National Law) Act 2012.*

The Committee generally prefers amendments to an Act to be made by an amending bill rather than subordinate legislation. This is to foster a greater level of parliamentary oversight, as, unlike for primary legislation, subordinate legislation is not required to be passed by Parliament and Parliament does not control when it commences.

However, the Committee acknowledges that amendment of the Act by subordinate legislation is, in this case, allowed by the principal Act. Sections 220(7) and 225(2) of the Act allow for regulations to exempt or provide for the exemption of specified entities or kinds of entities from the restrictions in sections 220(4) and 225(1), respectively. In the circumstances, the Committee makes no further comment.

2. Registered Clubs Regulation 2025

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

Absolute and strict liability offences

The Regulation inserts a number of new offences into the *Registered Clubs Act 1976* through the creation of the Registered Clubs Accountability Code. These include sections 5(1), 5(3), 7(1) and 7(2), which are absolute liability offences, and sections 5(2), 9(1), 9(3) and 10(1), which are strict liability offences. These offences all have a maximum penalty of a $5,500 fine (50 penalty units).

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. However, the Committee notes that these types of offences are not uncommon in regulatory settings to encourage compliance. In this case, the additional requirements introduced seek to ensure that appropriate standards of conduct and management are observed by all registered clubs, in line with the Act. The Committee also notes that the maximum penalty for these offences is monetary and not custodial. For these reasons, the Committee makes no further comment.

3. Summary Offences Regulation 2025

Objective could have been achieved by alternative and more effective means: LRA s 9(1)(b)(v)

Henry VIII clause

Section 9 of the Regulation provides exemptions to section 11F of the *Summary Offences Act 1988* (the Act), which prohibits the sale of knives to children.

The Committee generally prefers amendments to an Act to be made by an amending bill rather than subordinate legislation. This is to foster a greater level of parliamentary oversight, as, unlike for primary legislation, subordinate legislation is not required to be passed by Parliament and Parliament does not control when it commences.

However, the Committee acknowledges that amendment of the Act by subordinate legislation is, in this case, authorised by the principal Act. Section 11F(6) of the Act allows for regulations to stipulate specific classes or descriptions of knives that are exempt from the offence set out in section 11F. Additionally, the Committee notes that the Summary Offences Regulation 2020, which this Regulation is repealing and remaking, included very similar clauses, which had the same effect. In the circumstances, the Committee makes no further comment.

4. Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025

Objective could have been achieved by alternative and more effective means: s 9(1)(b)(v) of the LRA

Henry VIII clause

The Regulation inserts sections 5A and 5B into *the Water Management (General) Regulation 2025*, which would provide exemptions from the requirement to hold a water access licence under section 60A of the *Water Management Act 2000* (the Act).

The Regulation is made under section 400(2) of the Act, which permits exemptions from the Act. This is a Henry VIII provision because it allows the Executive to amend the principal Act by way of regulation, without reference to Parliament. The Committee generally prefers amendments to an act to be made by an amending bill rather than through subordinate legislation. This is to provide for a greater level of parliamentary oversight, as, unlike primary legislation, subordinate legislation is not required to be passed by Parliament.

However, the Committee acknowledges that section 400(2) of the principal Act allows for the regulations to permit exemptions from the Act. The exemption under section 5A of the Regulation is also subject to a number of conditions, which may limit the exemptions granted. Further, the Committee notes that regulations are required to be tabled in Parliament and are subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.

Part One – Bills

1. 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2025

Date introduced	14 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. John Graham MLC

Purpose and description

1.1 The objects of the Bill are:

(a) to amend the *Liquor Act 2007* and the *Gaming and Liquor Administration Act 2007* to increase the vibrancy of the night-time economy

(b) to make consequential amendments to other legislation.

Background

1.2 The Bill proposes a number of legislative amendments to support the Government's 'NSW 24-Hour Economy Strategy' and build upon the vibrancy reforms that were passed in 2023 and 2024.

1.3 In his second reading speech, the Hon. John Graham MLC, Minister for Music and the Night-time Economy, explained that this third tranche of reforms aims to increase the vibrancy of the night-time economy by removing red tape, supporting live music, increasing operating and trading hour flexibility, and improving patron and staff safety.

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

Commencement by proclamation

1.4 Clause 2(a) of the Bill states that for Schedule 1[7] and [14], to the extent it inserts sections 47(F)(1)(b) and (2) and 47G, the Act commences on a day or days to be appointed by proclamation.

Some clauses of 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. However the Committee acknowledges that the Bill forms part of the Government's broader 24-Hour Economy Strategy, and that a flexible start date may benefit the effective implementation of this policy objective. In the circumstances, the Committee makes no further comment.

2. Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025

Date introduced	14 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. Penny Sharpe MLC

Purpose and description

2.1 The object of the Bill is to amend the *Crimes (Administration of Sentences) Act 1999* (the **Act)** to lower the burden of proof for correctional centre offences determined by the governor of a correctional centre (the **governor**) from satisfied beyond reasonable doubt to satisfied on the balance of probabilities that the inmate is guilty of the offence.

Background

2.2 The Bill seeks to change the standard of proof for determining correctional centre offences from the criminal standard of 'beyond reasonable doubt' to the civil standard of 'satisfied on the balance of probabilities'.

2.3 In his second reading speech, the Hon. Mark Buttigieg MLC, on behalf of the Hon. Penny Sharpe MLC, explained:

> The proposed amendments align the standard of proof for correctional centre offences in New South Wales with other Australian jurisdictions where the civil standard of proof is applied in all or most inmate discipline matters.

2.4 Mr Buttigieg also explained that the Bill responds to the NSW Ombudsman's report *Investigation into inmate discipline in NSW correctional centres* (the **Ombudsman's report**), and a subsequent Corrective Services NSW review, which found that '… Corrective Services NSW staff have been mistakenly applying the balance of probabilities instead of the legislated beyond reasonable doubt standard, owing to a lack of education and training.'

Issues considered by the Committee

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

Right to presumption of innocence - lower standard of proof for correctional centre offences

2.5 Section 52 of the Act allows the governor of a correctional centre to charge an inmate with a correctional centre offence and conduct an inquiry into the allegation.

2.6 Section 53(1) of the Act states that if, after conducting an inquiry, the governor is satisfied beyond reasonable doubt that the inmate is guilty of the offence, the governor may impose penalties including confinement to a cell for up to 7 days.

2.7 The Bill proposes to omit the words 'beyond reasonable doubt' and replace them with 'on the balance of probabilities' at section 53(1) of the Act.

2.8 The Statement of Public Interest tabled with the Bill notes that:

> … the Ombudsman's Report specified that any reforms to inmate discipline to address non-compliant process should be focused on process improvement and not risk adversely affecting the rights of inmates overall, such as by reducing the standard of proof required for offences. Whilst this commentary is acknowledged, jurisdictional comparison and consultation with the PSA suggests that an administrative decision making system requiring that matters be proven to a criminal standard may not be fit for purpose.

The Bill would amend the *Crimes (Administration of Sentences) Act 1999* to lower the standard of proof for correctional centre offences from the higher criminal standard of 'beyond reasonable doubt' to the lower civil standard of 'on the balance of probabilities'. These amendments would allow the governor of a correctional centre to determine that an inmate is guilty of an offence, based on this lower standard. An inmate found guilty of a correctional centre offence can be sentenced to up to 7 days of solitary confinement, among other penalties. The Bill may therefore infringe on an accused person's right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights. The presumption of innocence applies to criminal charges and guarantees that guilt cannot be presumed until the charge is proved beyond reasonable doubt.[1]

The Committee acknowledges that correctional centre offences are disciplinary offences rather than criminal offences, and that some comparable jurisdictions do not apply the criminal standard of proof to these offences. The Committee also notes that the Bill seeks to rectify the current misapplication of the law by Corrective Services NSW staff due to lack of education and training.

However, the Committee notes that where an inmate is found guilty of a correctional centre offence, the governor can impose a penalty of solitary confinement. This is a significant penalty that may be more appropriately applied in criminal contexts, where a higher standard of proof is required for a finding of guilt. The Committee also notes the NSW Ombudsman's advice that a failure to routinely apply the criminal standard should not be addressed by lowering that standard through legislation, as this may adversely impact upon the rights of individual inmates. For these reasons, the Committee refers this issue to Parliament for consideration.

Right to a fair trial and procedural fairness – effective retrospective enactment of lowered standard of evidence

2.9 The Bill would insert the following savings and transitional clauses at Schedule 5 of the Act:

> **Charges for offences not finally determined**
> The amendment made by the *Crimes (Administration of Sentences) Amendment (Standard of Proof) Act 2025* extends to charges for offences

[1] United Nations Human Rights Committee, General Comment No 32, 23 August 2007, p 9.

committed, but not finally determined by a governor, before the commencement of that Act.

The Bill seeks to insert savings and transitional provisions that would apply the lower standard of evidence to current charges against inmates where those charges are not finally determined by a governor. The effect is a retrospective application of the civil standard of proof to charges against an inmate that were laid at a time when the inmate could reasonably assume their guilt would be determined on the basis of the higher criminal standard.

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact 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 acknowledges that this retrospective application may be intended to resolve live issues, including the appropriateness of applying a criminal standard to civil proceedings, and recent findings that Corrective Services NSW have been mistakenly applying the incorrect standard of proof. However, there is an inherent unjustness to changing the standard of evidence in a government agency's favour, midway through the determination of that agency's charge against an inmate who is already naturally disadvantaged due to their incarceration. For this reason, the Committee refers this issue to Parliament for consideration.

3. Crimes Legislation Amendment (Domestic Violence and Sexual Offences) Bill 2025

Date introduced	16 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. Rose Jackson MLC

Purpose and description

3.1 The objects of the Bill are as follows:

(a) to amend the *Crimes Act 1900* (the **Act**) to provide that the approval of either the Attorney General or the Director of Public Prosecutions is required to commence a prosecution of certain offences

(b) to amend the definition of personal violence offence in the *Crimes (Domestic and Personal Violence) Act 2007* to include additional offences under the Act

(c) to amend the *Crimes (Sentencing Procedure) Act 1999* to provide for a standard non-parole period of 25 years for the offence of murder if the victim is an intimate partner of the offender.

Background

3.2 The Bill proposes to amend the Act, the *Crimes (Domestic and Personal Violence) Act 2007* and the *Crimes (Sentencing Procedure) Act 1999* to address certain issues relating to domestic and personal crimes.

3.3 During her second reading speech, the Hon. Rose Jackson MLC, on behalf of the Attorney General, said that:

> These may appear to be small, procedural amendments, but as we are often reminded by our stakeholders, particularly in the sexual violence space, continuing to do the work to resolve inconsistencies and omissions across the statute book that leave out some categories of victim-survivors from protections or improved procedures is important.

3.4 In relation to the proposed amendment to the *Crimes (Sentencing Procedure) Act 1999*, the Minister explained:

> This bill will establish a third category of murder with a standard non-parole period of 25 years, where the victim was the current or former intimate partner of the offender. This reform recognises the distinct nature of intimate partner violence, which often involves aggravating circumstances such as repeated or escalating abuse, breaches of apprehended domestic violence orders intended to keep victims safe,

> offending in the victim's home and the presence of children during the offence.

3.5 The Minister further explained that this amendment:

> …will support public confidence in the justice system by ensuring that sentencing outcomes reflect the gravity of the offence. A higher standard non-parole period will contribute to both specific and general deterrence and reinforce accountability for offenders who commit lethal violence within intimate partner relationships.

3.6 The Committee notes that, under section 54B of the *Crimes (Sentencing Procedure) Act 1999,* the standard non-parole period for an offence is to be taken into account when the court considers the appropriate sentence to be imposed, but this non-parole period is not mandatory.

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*.

4. Energy Legislation Amendment Bill 2025

Date introduced	14 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. Penny Sharpe MLC

Purpose and description

4.1 The objects of the Bill are as follows:

(a) to amend the *Electricity Infrastructure Investment Act 2020* (the **EII Act**) to:

(i) provide for the community purposes and employment purposes for which access scheme fees may be used

(ii) enable the planning, provision and management of system security services in connection with infrastructure that is not owned by the system strength service provider

(iii) broaden the infrastructure in relation to which long-term energy service agreements (**LTES agreements**) may be entered into for the purposes of the electricity infrastructure investment safeguard

(iv) enable the Minister to terminate the appointment of the consumer trustee if the Minister is reasonably satisfied the consumer trustee is unable to act independently

(v) amend and clarify the functions of the infrastructure planner and the consumer trustee in the recommendation and authorisation of network infrastructure projects

(vi) to facilitate payments to the infrastructure planner out of the electricity infrastructure fund for costs incurred by the infrastructure planner in the exercise of the infrastructure planner's functions

(vii) make other administrative, minor and consequential amendments

(b) to amend the *Electricity Supply Act 1995* (the **ES Act**) to:

(i) facilitate and support the efficient and timely investment in electricity infrastructure under the EII Act

(ii) enhance the regulation of network-to-network connections, including through increased penalties and new licence conditions

(iii) enable the Independent Pricing and Regulatory Tribunal (the **Tribunal**) to pursue certain proceedings, including for civil penalties, under the National Electricity (NSW) Law (the **NEL**)

(iv) create offences for a retailer or an exempt seller to:

(A) charge small customers, or credit small customers at a rate less than $0 per kilowatt hour, for solar-generated electricity supplied by the customer to the retailer or exempt seller

(B) charge other customers more for solar-generated electricity supplied by the customer to the supplier or exempt seller than the amount credited to the customer for the electricity during a billing period

(v) provide for the Tribunal to make price determinations for energy, hot water and air-conditioning services provided to customers through embedded networks and require operators of embedded networks or persons who sell energy, hot water or air-conditioning services delivered through an embedded network to comply with approved energy ombudsman schemes

(vi) provide increased flexibility for the strategic benefit payment guidelines, including by providing for the eligibility of an expanded category of impacted land owners and other holders of interests in land to receive strategic benefit payments

(vii) provide for the renewable fuel scheme (**RFS**) to commence 1 January 2027

(viii) improve the administration of licence applications and licences

(ix) make other administrative, minor and consequential amendments

(c) to amend the *National Electricity (New South Wales) Act 1997* to:

(i) provide a regulation-making power to modify the National Electricity Rules to allow network service providers to recover costs associated with making payments to landholders for hosting certain types of energy infrastructure

(ii) make other administrative, minor and consequential matters

(d) to make related and consequential amendments to the Electricity Supply (General) Regulation 2014, the *Independent Pricing and Regulatory Tribunal Act 1992* and the *Residential (Land Lease) Communities Act 2013*.

Background

4.2 The Bill proposes to amend multiple Acts regulating the supply, transmission and distribution of electricity, including the delivery of critical energy infrastructure.

4.3 In her second reading speech, the Hon. Penny Sharpe MLC, Minister for Energy, said that the Bill is about 'the engineering and economic analysis performed by Government, the Energy Market Operator and the network companies in order to assess the best ways to deliver electricity around the State.'

4.4 The Minister also explained that the Bill delivers on reforms recommended by the Transmission Planning Review, which found that the current planning and approval arrangements for renewable energy zones are overly complex. To address this, the review recommended:

> …first, to streamline authorisation of renewable energy zone network infrastructure projects to reduce delays and give project proponents the certainty they need to invest; second, to strengthen the regulatory arrangements governing how new networks connect to existing networks; and third, to clarify who is responsible for planning and delivering system strength in renewable energy zones in New South Wales.

Issues considered by the Committee

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

Continuing absolute liability offences

4.5 The Bill seeks to insert section 91D into the ES Act, which would allow the Tribunal to direct an embedded network seller to comply with a price determination if they are satisfied that the seller is failing to comply with the price determination.

4.6 Proposed section 91D(2) provides that an embedded network seller must not fail to comply with a direction issued under section 91D(1). The offence is subject to a maximum penalty of $220,000 (2000 penalty units) for a corporation and $11,000 (100 penalty units) for an individual, with an additional penalty of $22,000 (200 penalty units) for a corporation and $1,100 (10 penalty units) for an individual for each day the offence continues.

The Bill seeks to amend the *Electricity Supply Act 1995* to allow the Independent Pricing and Regulatory Tribunal to direct an embedded network seller to comply with a price determination if they are satisfied that the seller is failing to comply with the price determination. Proposed section 91D(2) provides that a seller must not fail to comply with the direction. The offence is subject to a base penalty of $220,000 for corporations and $11,000 for individuals, as well as additional penalties for each day that the offence continues.

The Bill would, therefore, introduce an absolute liability offence with continuous penalties. 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. In this case, this is exacerbated by the additional penalties that apply for each day that the offence continues, without fault being proven.

However, the Committee acknowledges that absolute liability offences are not uncommon in regulatory frameworks to encourage compliance. In this case, compliance with the electricity network regulatory framework is intended to ensure the efficient and sustainable operation

of the electricity network. The Committee also notes that the offences would only carry a monetary penalty and not a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Henry VIII clause permitting regulations to modify application of legislation

4.7 The Bill proposes to amend the EII Act, the ES Act and the *National Electricity (New South Wales) Act 1997* (**NSW Act**) to insert a new regulation-making power to modify the application of, or disapply a provision of the National Electricity (NSW) Law (**NEL**) and the National Electricity Rules (**NER**).

4.8 The Bill would insert section 42A(1) into the EII Act and section 192B(2) into the ES Act to provide that regulations may modify the application of, or disapply a provision of the NEL and the NER. It also proposes to insert section 9 into schedule 5 of the NSW Act to allow the regulations to modify the operation of the NER, to the extent they apply as a law of NSW.

The Bill seeks to insert a new regulation-making power into the *Electricity Infrastructure Investment Act 2020* and the *Electricity Supply Act 1995* to enable the regulations to modify the application of, or disapply a provision of the National Electricity (NSW) Law (NEL) and the National Electricity Rules (NER). It also proposes to insert a regulation-making power into the *National Electricity (New South Wales) Act 1997* to allow the regulations to modify the operation of the NER.

The provisions may, therefore, amount to Henry VIII clauses, in that they allow the Executive to amend the operation of the NER and NEL 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.

However, the Committee notes that regulations made under these provisions are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. Additionally, the Committee notes that the provisions are intended to provide flexibility and allow for the timely modification of the NER and NEL in accordance with NSW electricity network priorities. They are also limited to what is reasonably necessary to give effect to regulations made under the relevant legislation. In the circumstances, the Committee makes no further comment.

Wide delegation of powers to unspecified persons

4.9 The Bill proposes to amend the EII Act by expanding its existing delegation powers under section 71.

4.10 Proposed subsection 71(5) would enable the Secretary to subdelegate a function delegated to the Secretary by the Minister to an authorised person. Subsection 71(6) would allow the Secretary to delegate their functions under the EII Act to an authorised person.

4.11 An 'authorised person' is defined in proposed subsection 71(7) as an 'employee of the Department' or 'a person, or a person of a class, prescribed by the regulations.'

The Bill would amend the *Electricity Infrastructure Investment Act 2020* (EII Act) to expand the existing delegation powers under section 71. Proposed subsections 71(5) and (6) would allow the Secretary to subdelegate a function delegated by the Minister, and delegate the Secretary's functions under the EII Act, to 'a person, or a person of a class, prescribed by the regulations.'

The Bill may, therefore, provide for the wide delegation of statutory functions to a class of unknown persons. This may enable private individuals to be delegated functions under the EII Act that 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 Secretary of the Department could allow for more flexibility in the administration and operation of the electricity regulatory framework. It also recognises that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.

However, the Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity as well as greater oversight of the exercise of those executive and public functions. For this reason, the Committee refers the matter to Parliament for consideration.

5. Gaming Machines Amendment (Mandatory Shutdown Period) Bill 2025*

Date introduced	15 October 2025
House introduced	Legislative Council
Member with carriage	Ms Cate Faehrmann MLC

Purpose and description

5.1 The object of the Bill is to amend the *Gaming Machines Act 2001* (the **Act**) as follows:

(a) to increase the mandatory shutdown period for gaming machines to 10 hours each day

(b) to increase the maximum penalty for a contravention of the mandatory shutdown period

(c) to remove provisions allowing for approved shorter or different shutdown periods.

Background

5.2 The Bill seeks to amend section 39 of the Act to extend the existing mandatory shutdown period for all gaming machines in NSW from six hours to 10 hours every day, between midnight and 10am.

5.3 The Bill would also increase the existing maximum penalty for an offence under section 39 to a $55,000 fine (500 penalty units) and $1,100 (10 penalty units) for each approved gaming machine operated during the general 10-hour shutdown period.

5.4 Additionally, the Bill would repeal sections 40 and 41, and subsection 42(3) of the Act, which currently allow for shorter shutdown periods of three hours, with approval from the Independent Liquor and Gaming Authority.

5.5 In her second reading speech, Ms Cate Faehrmann MLC noted:

> Poker machines are by far the most harmful form of gambling in our State, and many reviews have confirmed that. The New South Wales Auditor-General inquired into this issue and released a report in August this year. It noted that pokies account for the majority of gambling losses and cause disproportionate harm to people on low incomes, young men and those already in financial stress.

5.6 Ms Faehrmann further explained:

> …a uniform, extended shutdown period and the repeal of all variations—will ensure that every venue in New South Wales gives its patrons and

communities a guaranteed break from poker machines during the hours when gambling harm is most severe.

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. Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025

Date introduced	14 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. Tara Moriarty MLC

Purpose and description

6.1 The objects of the Bill are to:

(a) transfer local councillor conduct matters from the NSW Civil and Administrative Tribunal (the **Tribunal**) to the Land and Environment Court (the **LEC**)

(b) provide for public interest proceedings in the LEC in relation to councillor conduct

(c) authorise the LEC to make disciplinary orders for public interest proceedings in relation to councillor conduct.

Background

6.2 The Bill proposes amendments to the *Local Government Act 1993* (the **Act**) to uphold the integrity of local government and ensure that appropriate actions are taken to address and deter conduct that breaches the law or a council's code of conduct.

6.3 The Bill seeks to transfer the responsibility for determining proceedings of serious misconduct from the Tribunal to the LEC. It would introduce a new category of proceedings (public interest proceedings) under the Act, which may be commenced by a Minister, other official entities, or a third party if they consider the proceedings to be 'in the public interest'.

6.4 The Bill would also equip the LEC with a suite of options to sanction councillors who have been found to have acted against the law or contrary to their council's code of conduct.

6.5 In her second reading speech, the Hon. Tara Moriarty MLC stated:

> …the bill ensures that matters involving serious councillor misconduct are dealt with efficiently, fairly and with the appropriate level of legal authority. The bill strengthens the process by enabling the Minister, the departmental chief executive of the Office of Local Government, certain authorities, and third parties with leave of the court, to initiate proceedings in the Land and Environment Court. The court will have the power to impose meaningful penalties such as suspension, disqualification, fines

and restitution, based on consideration of the public interest, including the severity of the misconduct.

Issues considered by the Committee

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

Lack of notice and hearing requirements impacting right to procedural fairness

6.6 Proposed section 733B of the Bill would allow a relevant person to commence proceedings against a councillor, in relation to an alleged contravention of a law or the council's code of conduct, if the relevant person considers the proceedings to be in the public interest.

6.7 'Relevant persons' are defined as:

- a Minister
- the Departmental Chief Executive
- the Director of Public Prosecutions
- the Independent Commission Against Corruption
- the Secretary of another Department
- another person granted leave by the LEC.

6.8 Proposed subsections 438HAA(2) and 440IA(2) provide that, if public interest proceedings are commenced following the receipt of a departmental report, the Departmental Chief Executive would not be required to give a notice to the councillor subject to the proceedings. Additionally, the councillor would not need to be given an opportunity to be heard in relation to the content of the report or the commencement of the proceedings.

The Bill seeks to amend the *Local Government Act 1993* to enable public interest proceedings to be initiated against a current or former councillor for a serious breach of the law or code of conduct. Proposed subsections 438HAA(2) and 440IA(2) provide that, following the receipt of a departmental report, the Departmental Chief Executive would not be required to give a notice to the councillor concerned or to afford them an opportunity to be heard in relation to the contents of the report or the commencement of the proceedings. The Bill may therefore unduly trespass on an individual's right to procedural fairness.

The Committee acknowledges that the amendment may be intended to ensure that serious matters of public interest are addressed promptly. The Committee also recognises that the Bill would not prevent the accused councillor from presenting their case in court. However, the Committee remains concerned that the Bill would undermine the individual's rights to a fair process, as it would deny the councillor the opportunity to respond to adverse material before the proceedings commence. For this reason, the Committee refers this matter to Parliament for consideration.

Additional punishment for the same conduct

6.9 Proposed Part 4 of the Bill would allow the LEC to respond to misconduct in local government with a suite of options. These include disciplinary orders for the payment of a civil penalty to the State of an amount not to exceed $49,940 (454 penalty units).

6.10 Proposed section 733F clarifies that the LEC may make a disciplinary order in public interest proceedings even where the councillor has already been convicted of a criminal offence arising from substantially the same conduct. Additionally, proposed section 733H clarifies that a councillor who has been issued with a disciplinary order in public interest proceedings may also be prosecuted in criminal court for substantially the same conduct.

6.11 However, proposed section 733G provides that public interest proceedings are to be stayed if criminal proceedings are commenced or ongoing in relation to substantially the same conduct.

The Bill would insert section 733F and 733H into the *Local Government Act 1993.* Proposed section 733F clarifies that the Land and Environment Court may make a disciplinary order in public interest proceedings where the councillor has already been convicted of a criminal offence arising from substantially the same conduct. Proposed section 733H also clarifies that a councillor who has been issued with a disciplinary order in public interest proceedings may also be prosecuted in criminal court for substantially the same conduct. This means that a person may be punished for the same conduct in both criminal proceedings and public interest proceedings.

The Committee generally comments on provisions that allow additional punishment of an individual for the same conduct, as this may be considered excessive. However, the Committee acknowledges that the new provisions would only apply to serious breaches of the law or code of conduct. The Committee further recognises that the amendments are intended to act as a strong deterrent and ensure that the integrity of local government is upheld. In the circumstances, the Committee makes no further comment.

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

Power of Minister to transfer existing proceedings

6.12 The Bill seeks to amend Schedule 8 of the Act by inserting new provisions regarding existing proceedings prior to the commencement of the amendments.

6.13 Proposed subclause (2) provides that pending applications submitted before the new amendment has commenced would continue to be considered under the *Civil and Administrative Tribunal Act 2013*, as if the amendment had not commenced.

6.14 However, subclause (3) provides that the Minister can make an order for existing proceedings under the *Civil and Administrative Tribunal Act 2013* to be dealt with by the LEC under the *Land and Environment Court Act 1979*. If such an order is made, the proceedings will cease in the Civil and Administrative Tribunal.

The Bill proposes to amend Schedule 8 of the *Local Government Act 1993* by inserting savings and transitional provisions in relation to existing proceedings. Although subclause (2) provides that pending applications submitted before the new amendment has commenced would continue to be considered under the *Civil and Administrative Tribunal Act 2013*, subclause (3) would allow the Minister for Local Government to make an order to transfer proceedings to the Land and Environment Court. This would allow the Minister to apply the proposed amendments retrospectively.

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 also notes that the powers conferred on the Minister to intervene and transfer proceedings are broad and do not clarify the circumstances in which the Minister may intervene and order a transfer of proceedings. For these reasons, the Committee refers this matter to Parliament for consideration.

Commencement by proclamation

6.15 Clause 2 of the Bill provides that it would commence 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 those affected by the Bill's provisions, 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 commencement by proclamation may be intended to facilitate greater flexibility in making the administrative changes necessary to implement the transfer of jurisdictions between the relevant courts. For this reason, the Committee makes no further comment.

7. Retail Leases Amendment (Review) Bill 2025

Date introduced	14 October 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Janelle Saffin MP

Purpose and description

7.1 The object of the Bill is to give effect to the first tranche of recommendations arising from the statutory review of the *Retail Leases Act 1994* (the **Act**).

Background

7.2 In her second reading speech, the Hon. Janelle Saffin MP, Minister for Small Business, stated:

> The bill will amend the *Retail Leases Act 1994* to improve the operation of the Act for lessors and lessees, including processes for entering into a lease and safeguards under the Act. This will strengthen the Act's primary policy objective of fostering good leasing practices between lessors and lessees.

7.3 The Bill seeks to:

- introduce objects of the Act
- clarify ambiguities on ancillary rights in retail lease agreements
- set out the types of documents that are required during the negotiation stage of a lease agreement between parties
- broaden the rights to terminate lease agreements depending on the provision of a lessor disclosure statement
- introduce grounds to extend the period of executing a lease and registering it
- remove the restriction that prevents a lessor from recovering lease preparation expenses.

7.4 The Minister said that the reforms proposed by the Bill:

> … are practical, balanced and responsive to the needs of the retail leasing sector. They will foster greater confidence in the retail leasing system from both landlords and tenants by improving clarity, streamlining processes and strengthening key safeguards.

Issues considered by the Committee

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

Absolute liability offences

7.5 The Bill proposes to introduce a number of new offence provisions into the Act. These include:

- section 9(1), which prohibits a prospective lessor of a retail shop from offering to enter into a lease, inviting an offer, or indicating that the shop is for lease, unless they have a copy of the proposed lease available for inspection by a prospective lessee
- section 9(2), which requires a prospective lessor of a retail shop to make the lease and relevant documents available to a prospective lessee of the shop as soon as a prospective lessor enters into negotiations with the prospective lessee concerning the lease
- section 11(1), which stipulates that a person who proposes to enter into a retail shop lease as a lessor must ensure a written statement is given to the proposed lessee in accordance with section 11
- section 11(4), which stipulates that the proposed lessee must, after receiving the lessor disclosure statement, ensure a written statement is given to the proposed lessor in accordance with section 11.

7.6 The maximum penalty for each of the proposed offences is a $5,500 fine (50 penalty units).

7.7 Section 9(4) stipulates that section 9 applies to a person acting on behalf of a prospective lessor in the same way as it applies to the prospective lessor.

The Bill proposes to establish a number of new absolute liability offences under sections 9 and 11 of the *Retail Leases Act 1994*. These provisions would require the prospective lessor and lessee to provide certain documents and statements at the negotiation stage. Failure to comply with these requirements would carry a maximum penalty of a $5,500 fine (50 penalty units). Proposed section 9(4) also provides that a person acting on behalf of a prospective lessor may be held vicariously liable.

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 frameworks to encourage compliance. In this case, compliance with the regulatory regime is intended to ensure public confidence in the retail leasing system. The Committee also notes that the offences would only carry a monetary penalty and not a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Commencement by proclamation

7.8 Clause 2 of the Bill stipulates that it would commence on a day or days to be appointed by proclamation.

> **Clause 2 of the Bill stipulates that it 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. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.**
>
> **However, the Committee acknowledges the practical reasons for allowing a flexible start date, such as to establish administrative procedures necessary to implement the amended provisions. For this reason, the Committee makes no further comment.**

8. Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Bill 2025

Date introduced	15 October 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Jenny Aitchison MP

Purpose and description

8.1 The objects of the Bill are as follows:

(a) to amend the *Road Transport Act 2013* to:

(i) require operators of micromobility vehicle sharing services to be approved by Transport for NSW and be authorised by the local council or public authority (an **authority**) responsible for each area in which the sharing service operates

(ii) provide for compliance and enforcement powers in relation to the operation of micromobility vehicle sharing services

(b) to clarify that legislation relating to deaths or injuries arising from motor vehicle accidents does not apply to accidents involving micromobility vehicles only

(c) to amend the *Passenger Transport Act 1990* and the *Passenger Transport Act 2014* in relation to smartcards, including providing for the forfeiture of funds on dormant smartcards.

Background

8.2 The Bill seeks to regulate operators of micromobility vehicle sharing services through amendments to a number of acts, including the *Road Transport Act 2013* (the **Act**), the *Motor Accident Injuries Act 2017* and the *Motor Accidents (Lifetime Care and Support) Act 2006.*

8.3 The Bill would also amend the *Passenger Transport Act 1990* and the *Passenger Transport Act 2014* to allow Transport for NSW to utilise unused funds on dormant Opal cards for other transport-related purposes.

8.4 In her second reading speech, the Hon. Jenny Aitchison MP, Minister for Roads, stated:

> The bill represents tranche 1 of the Government's commitment to reform shared and private micromobility, which includes bikes, e-bikes and e-

> scooters, to make these options safer and better integrated into our vibrant communities and transport system.

8.5 The Minister further explained that:

> The primary purpose of the bill is to establish a new regulatory framework to support the availability of safe and well-managed micromobility vehicle sharing services in New South Wales. We know that when done right shared micromobility can play a significant role in our transport network by connecting people to the public transport network, addressing transport and ownership inequities, and enabling shorter journeys within local communities.

Issues considered by the Committee

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

Continuing strict liability offences

8.6 The Bill seeks to introduce section 148ZZD into the Act, which would prohibit a person from contravening a removal order without reasonable excuse. The offence would carry a maximum penalty of a $55,000 fine (500 penalty units), and for a continuing offence, a further $5,500 fine (50 penalty units) for each day the offence continues.

8.7 Subsection 2 stipulates that a person who is guilty of the offence:

(a) continues, until the requirement is complied with and despite the fact a specified period has expired or time has passed, to be liable to comply with the requirement

(b) is guilty of a continuing offence for each day the contravention continues.

The Bill seeks to insert section 148ZZD into the *Road Transport Act 2013.* This section would prohibit a person from contravening a removal order without reasonable excuse. Failure to comply with this would carry a maximum penalty of a $55,000 fine (500 penalty units) and a further $5,500 fine (50 penalty units) for each day the offence continues.

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. In this case, this is exacerbated by the additional penalties that apply for each day that the offence continues, without fault being proven.

However, the Committee acknowledges that the Bill is intended to deter offending behaviour and, ultimately, to uphold public safety by ensuring the appropriate regulation of micromobility vehicles. In addition, the section is intended to apply to operators of micromobility vehicles, rather than individuals, and the applicable penalty is monetary only. For these reasons, the Committee makes no further comment.

Absolute liability offences

8.8 The Bill proposes to insert section 148ZA into the Act, which stipulates requirements to operate micromobility vehicle sharing services. It introduces a number of new offence provisions, including:

(a) Subsection (1), which prohibits a person from operating a micromobility vehicle sharing service unless they are an approved operator

(b) Subsection (2), which prohibits an approved operator from operating a micromobility vehicle sharing service in an authority's area of operations unless they hold an operating authorisation granted by the authority

(c) Subsection (3), which prohibits an approved operator from making a micromobility vehicle available for hire unless the vehicle meets the requirements, if any, prescribed by the statutory rules.

8.9 Failure to comply with the requirements would carry a maximum penalty of a $55,000 fine (500 penalty units).

The Bill proposes to establish a number of new absolute liability offences under the *Road Transport Act 2013*. These provisions, contained in section 148ZA, seek to impose requirements on the operation of micromobility vehicle sharing services. Failure to comply with the requirements would carry maximum penalty of a $55,000 fine (500 penalty units).

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 frameworks to encourage compliance. In this case, compliance with the regulatory regime is intended to ensure public safety by placing stricter regulations on the micromobility vehicle sharing service operators. The Committee also notes that the offences would carry a monetary, rather than a custodial penalty. In the circumstances, the Committee makes no further comment.

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

Significant matters deferred to regulations – offences

8.10 The Bill proposes to insert sections 148ZO and 148ZT into the Act, which would empower the regulations to create offences.

8.11 Proposed section 148ZO(4) would allow the statutory rules to prescribe different automatic suspension offences for different categories of approved operators, and circumstances in which an offence is or is not an automatic suspension offence.

8.12 Proposed section 148ZT(3) would similarly allow the statutory rules to prescribe different automatic revocation offences for different categories of approved operators, and circumstances in which an offence is or is not an automatic revocation offence.

The Bill seeks to insert sections 148ZO and 148ZT into the *Road Transport Act 2013* to allow regulations to prescribe automatic suspension and automatic revocation offences for different categories of approved operators, and to stipulate the circumstances in which an offence is or is not an automatic suspension or revocation offence.

The Committee generally prefers that substantive matters that may impact an individual's rights, liberties or obligations under law are set out in primary legislation to ensure an appropriate level of parliamentary scrutiny.

The Committee acknowledges that delegating the power to create offences to regulations may be intended to build more flexibility into the regulatory framework. However, the Committee notes that what amounts to an automatic suspension or automatic revocation offence may significantly impact a person's rights, liberties and obligations. For these reasons, the Committee refers the matter to Parliament for consideration.

Significant matters deferred to regulations – definition of 'micromobility vehicle'

8.13 The Bill proposes to insert section 148X into the *Road Transport Act 2013.* This section would allow the definition of 'micromobility vehicle' to be prescribed by statutory rules, or approved by Transport NSW by an order published in the Gazette.

8.14 In her second reading speech, the Minister explained the reason for not providing a definition of micromobility vehicle in the Bill:

> …over the past 10 years, micromobility technology is constantly innovating. The potential nature of the vehicles that could be offered through sharing services is difficult to determine in advance.

The Bill seeks to insert section 148X into the *Road Transport Act 2013*, which would provide a general regulation-making power to define 'micromobility vehicle'. This would allow the regulations to define a significant aspect of the regulatory framework that the Bill is seeking to impose.

The Committee generally prefers substantive matters such as these to be set out in primary legislation rather than regulations to ensure an appropriate level of parliamentary oversight. This is particularly important where the matters deferred to the regulations constitute significant aspects of the regulatory framework.

However, the Committee recognises that the provisions may be intended to build more flexibility into the regulatory framework and allow the appropriate authority to better respond to developments in micromobility technology. 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.

Commencement by proclamation

8.15 Clause 2 of the Bill stipulates that section 148ZA in Schedule 1[2], Schedule 2, Schedule 3, Schedule 5[2], section 128B in Schedule 5[3] and Schedule 5[4] would commence on a day or days to be appointed by proclamation.

Clause 2(2) of the Bill stipulates that parts of the Bill, namely section 148ZA in Schedule 1[2], Schedule 2, Schedule 3, Schedule 5[2], section 128B in Schedule 5[3] and Schedule 5[4], 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. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

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

9. Roads Legislation Amendment (NSW Motorways) Bill 2025

Date introduced	15 October 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Jenny Aitchison MP

Purpose and description

9.1 The objects of the Bill are as follows:

(a) to provide that NSW Motorways may exercise the functions of a roads authority

(b) to provide for the tolls and charges levied by a tolls authority, including NSW Motorways, in relation to tollways

(c) to provide for payments to the NSW Motorways Fund in relation to toll offences and offences committed on or in connection with tollways

(d) to amend the tollway ombudsman scheme (the **scheme**) to:

(i) apply the scheme to disputes and complaints about toll services provided by toll service providers both inside and outside the State

(ii) change the way contributions to the scheme are paid

(e) to establish a Customer Advocate within NSW Motorways to advocate for toll road customers.

Background

9.2 The Bill proposes numerous amendments to the *Roads Act 1993* to allow NSW Motorways to exercise the functions of a roads authority. It also proposes to establish a Customer Advocate under the *Transport Administration Act 1988*, and to repeal the *Transport Administration Amendment (NSW Motorways) Act 2024.*

9.3 In her second reading speech, the Hon. Jenny Aitchison MP, Minister for Roads, said:

> This legislation builds on the foundations laid last year with the establishment of NSW Motorways—a public entity designed to bring transparency, accountability and fairness to a tolling system that for too long has been fragmented, opaque and inequitable.

9.4 The Minister explained that the Bill does three things:

> Firstly, it removes outdated legislation and terminology. This means clearer, consolidated governance for our State's toll roads. Importantly, the bill also transfers the Sydney Harbour Tunnel to NSW Motorways…

> Secondly, the bill confers roads authority functions on NSW Motorways, empowering it to manage tollways appropriately. Schedule 1[2] of the bill formally recognises NSW Motorways as a roads authority for tollways…
>
> Thirdly, the bill will deliver outcomes for toll road customers and includes provisions to support the independent tollway ombudsman and the Customer Advocate role. An independent industry tollway ombudsman will help customers deal with disputes and complaints with toll road operators.

Issues considered by the Committee

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

Wide delegation of functions to unknown class of persons

9.5 The Bill seeks to insert clause 11 under Schedule 1 of the *Roads Act 1993* to provide for the powers of authorised officers. Clause 11(2)(b) provides that an authorised officer includes a class of persons prescribed by regulations who is authorised to exercise the functions of an authorised officer under the *Roads Act 1993*.

9.6 The Bill also proposes to insert subsection 39L(4) into the *Transport Administration Act 1988* to enable the Customer Advocate to delegate the exercise of their functions to a staff member of NSW Motorways or a class of persons prescribed by regulations.

The Bill seeks to amend the *Roads Act 1993* by inserting clause 11(2)(b) into Schedule 1 to enable a class of persons prescribed by regulations to exercise the functions of an authorised officer under the Act. It also proposes to insert section 39L(4) into the *Transport Administration Act 1988* to enable the Customer Advocate to delegate their functions to a class of persons prescribed by regulations.

The Bill would therefore provide for the wide delegation of statutory functions to classes of unknown persons. This may enable private individuals to be delegated functions and exercise powers under the relevant Acts that may be expected to be performed by public officials or authorities. The Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity as well as greater oversight of the exercise of those executive and public functions.

The Committee acknowledges that allowing regulations to prescribe who may exercise the powers of an authorised person, or be delegated functions by the Customer Advocate, may allow for more flexibility in the administration of the regulatory framework that supports NSW Motorways to operate efficiently. The Committee also recognises 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.

10. Voluntary Assisted Dying Amendment (Residential Facilities) Bill 2025*

Date introduced	15 October 2025
House introduced	Legislative Council
Member with carriage	The Hon. Susan Carter MLC

Purpose and description

10.1 The object of the Bill is to amend the *Voluntary Assisted Dying Act 2022* (the **Act)** to provide that residential facilities may decline to facilitate the administration of voluntary assisted dying services in the same way, and subject to the same obligations to make alternative arrangements, as hospitals.

Background

10.2 The Bill seeks to amend the Act to allow residential facilities to refuse access by a medical practitioner to a resident who has requested their presence in relation to voluntary assisted dying. Facilities would still be required to facilitate the transfer of the resident to and from another place where they can access a medical practitioner for this purpose.

10.3 In her second reading speech, the Hon. Susan Carter MLC stated that the Bill '…protects the animating ethos of faith-based aged care facilities, but does not compromise the existing rights of any residents.'

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

Refusal of access by a medical practitioner impacting on an individual's right to health

10.4 To access voluntary assisted dying under the Act, a person must undertake a series of staged requests, declarations and assessments that involve medical practitioners, including:

- a first request to a medical practitioner (section 19)
- a first assessment by the coordinating medical practitioner (section 25)
- an assessment by the consulting practitioner (section 36)
- a written declaration to be given to the person's coordinating practitioner (section 43)
- a final request to the coordinating medical practitioner (section 48)

- administration of a voluntary assisted dying substance by a medical practitioner, if the above stages have been completed (Part 4).

10.5 Part 5, Division 2 of the Act relates to residential facilities and currently states that, if a resident requests the presence of a medical professional to complete any stage of the voluntary assisted dying process, the residential facility must allow reasonable access to the resident by the practitioner (sections 90-98).

10.6 If the medical practitioner is not available to attend, the residential facility must take reasonable steps to facilitate the transfer of the resident to and from a place where the resident can access a practitioner (sections 90-98).

10.7 The Bill seeks to amend sections 90 and 92-97 of the Act so that residential facilities are not required to allow access to a resident by a medical practitioner for any of the above purposes under the Act. Residential facilities exercising this option would still be required to facilitate a resident's transfer to and from another place where they can access a medical practitioner.

The Bill would amend the *Voluntary Assisted Dying Act 2022* (the Act) so that residential facilities may refuse to allow medical practitioners to attend to a resident at the facility, where that resident has requested their presence for a purpose related to voluntary assisted dying. This is currently a requirement under the Act. The Bill may therefore infringe on an individual's right to health, which includes access to medical care and medical information, as contained in Article 12(1) of the International Covenant on Economic, Social and Cultural Rights.[2]

The Committee acknowledges that the Bill is intended to allow faith-based aged care facilities to conscientiously object to voluntary assisted dying taking place on their premises. The Committee also acknowledges that the Bill would still require residential facilities that refuse access to a medical practitioner to take reasonable steps to facilitate a resident's travel to and from another place where they can access a medical practitioner for this purpose.

However, the Committee notes that a medical practitioner is required at multiple stages of the voluntary assisted dying process, and that by refusing a medical practitioner access to a patient, the Bill would unduly restrict a vulnerable cohort of people from accessing relevant health care. The Bill would not only prevent a medical practitioner from attending to a resident to administer a voluntary assisted dying substance, it would also prevent them from attending the facility for the purpose of providing information, recording decisions, and making assessments related to voluntary assisted dying. This may unduly impact on a person's right to health care, and the right to make informed decisions about their health care, beyond what is necessary to balance other rights and interests. For these reasons, the Committee refers this matter to Parliament for consideration.

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[2] United Nations, Office of the High Commissioner for Human Rights, International Covenant on Economic, Social and Cultural Rights, 1966.

Part Two – Regulations with comment

1. Co-operatives (New South Wales) Regulation 2025

Date tabled	LA: 9 September 2025 LC: 9 September 2025
Disallowance date	LA: 13 November 2025 LC: 18 November 2025
Minister responsible	The Hon. Anoulack Chanthivong MP
Portfolio	Better Regulation and Trading

Purpose and description

1.1 The object of the Regulation is to remake, with changes, the Co-operatives (New South Wales) Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation prescribes:

(a) matters for the Co-operatives National Law (NSW) and the Co-operatives National Regulations (NSW)

(b) fees payable in relation to matters under the Co-operatives National Law (NSW), the Co-operatives National Regulations (NSW) and the *Co-operatives (Adoption of National Law) Act 2012*.

The Regulation is made under the *Co-operatives (Adoption of National Law) Act 2012*, including section 18, the local regulation-making power.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory

(c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Issues considered by the Committee

Objective could have been achieved by alternative and more effective means: s 9(1)(b)(v) of the LRA

Henry VIII provision

1.2 The explanatory note of the Regulation provides that section 7 may be made under a Henry VIII provision because the section impliedly amends the *Co-operatives (Adoption of National Law) Act 2012* (the **Act**) by affecting the application of the Act.

1.3 Section 7 stipulates that sections 220(4) and 225(1) of the Act, which place restrictions on registered names and trading names, do not to apply to a number of entities, including:

- a co-operative housing society within the meaning of the *Co-operative Housing and Starr-Bowkett Societies Act 1998*
- a company or society formed or incorporated under an Act before the commencement of the *Co-operation Act 1923*
- a corporation that is allowed under a law of the Commonwealth, or a law of a State or Territory, to use “Co-operative”, “Cooperative”, “Co-op” or “Coop” in its name
- a company that is allowed to use the expression “building society”, “credit union” or “credit society” under the *Banking Act 1959* of the Commonwealth, section 66
- a company that is a "friendly society" for the *Life Insurance Act 1995* of the Commonwealth.

Section 7 of the Regulation provides exemptions to the restrictions on registered names and trading names imposed by sections 220(4) and 225(1) of the *Co-operatives (Adoption of National Law) Act 2012.*

The Committee generally prefers amendments to an Act to be made by an amending bill rather than subordinate legislation. This is to foster a greater level of parliamentary oversight, as, unlike for primary legislation, subordinate legislation is not required to be passed by Parliament and Parliament does not control when it commences.

However, the Committee acknowledges that amendment of the Act by subordinate legislation is, in this case, allowed by the principal Act. Sections 220(7) and 225(2) of the Act allow for regulations to exempt or provide for the exemption of specified entities or kinds of entities from the restrictions in sections 220(4) and 225(1), respectively. In the circumstances, the Committee makes no further comment.

2. Registered Clubs Regulation 2025

Date tabled	LA: 9 September 2025 LC: 9 September 2025
Disallowance date	LA: 13 November 2025 LC: 18 November 2025
Minister responsible	The Hon. David Harris MP
Portfolio	Gaming and Racing

Purpose and description

2.1 The object of the Regulation is to remake, with minor changes, the Registered Clubs Regulation 2015, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) the amalgamation and de-amalgamation of registered clubs

(b) the processes to be followed by a registered club when applying for certain authorisations, including:

- community consultation
- notifying local consent authorities and police

(c) mandatory training for members of governing bodies, secretaries and managers

(d) the rules of registered clubs

(e) the display of notices in registered clubs

(f) evidentiary matters for certain criminal proceedings under the *Registered Clubs Act 1976* (the **Act**)

(g) the persons authorised to make complaints under the Act, Part 6A

(h) penalty notice offences.

Issues considered by the Committee

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

Absolute and strict liability offences

2.2 Section 41C(1) of the Act provides that regulations may prescribe a Registered Clubs Accountability Code (**Code**). The Code is outlined in Schedule 1 of the Regulation.

2.3 The Code introduces a number of new provisions, which section 13 of the Code classifies as offence provisions. These include:

(a) Section 5(1), which prohibits a registered club, without the approval of the board, from entering into a contract with a company in which a director or top executive of the club has a pecuniary interest, or with a director or top executive of the club

(b) Section 5(2), which stipulates that a registered club must not enter into a contract with the secretary or a manager of the club

(c) Section 5(3), which prohibits a registered club from entering into a contract with a close relative of the secretary or a manager of the club, or with a company or body in which the secretary or a manager of the club, or a close relative of the secretary or a manager of the club, has a controlling interest

(d) Section 7(1), which prohibits a registered club from lending money to a director of the club

(e) Section 7(2), which prohibits a registered club from lending money to the secretary or an employee of the club unless (a) the amount of the proposed loan is $10,000 or less, and (b) the proposed loan is first approved by the board

(f) Section 9(1), which stipulates the disclosures a director, top executive or employee of a registered club must make to the club to the extent the matters relate to the director, top executive or employee

(g) Section 9(3), which stipulates that a registered club must keep a register, in the form approved by the secretary, containing details of the disclosures made to the club under this section

(h) Section 10(1), which stipulates that a registered club must make certain information available to members of the club within 4 months after the end of each reporting period to which the information relates.

2.4 The maximum penalty for each of the above offence provisions is a $5,500 fine (50 penalty units), as stipulated in section 41C(3) of the Act.

The Regulation inserts a number of new offences into the *Registered Clubs Act 1976* through the creation of the Registered Clubs Accountability Code. These include sections 5(1), 5(3), 7(1) and 7(2), which are absolute liability offences, and sections 5(2), 9(1), 9(3) and 10(1), which are strict liability offences. These offences all have a maximum penalty of a $5,500 fine (50 penalty units).

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. However, the Committee notes that these types of offences are not uncommon in regulatory settings to encourage compliance. In this case, the additional requirements introduced seek to ensure that appropriate standards of conduct and management are observed by all registered clubs, in line with the Act. The Committee also notes that the maximum penalty for these offences is monetary and not custodial. For these reasons, the Committee makes no further comment.

3. Summary Offences Regulation 2025

Date tabled	LA: 9 September 2025 LC: 9 September 2025
Disallowance date	LA: 13 November 2025 LC: 18 November 2025
Minister responsible	The Hon. Michael Daley MP
Portfolio	Attorney General

Purpose and description

3.1 The object of the Regulation is to repeal and remake, without substantial amendments, the Summary Offences Regulation 2020, which would otherwise be repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) procedures relating to the seizure of liquor from a minor and the keeping and return of seized liquor

(b) knives to which the offence of selling knives to children does not apply

(c) the content of notices at declared sex clubs prohibiting minors from entering

(d) the form and particulars of a notice of intention to hold a public assembly

(e) the penalty notice amount payable in relation to the offence of hunting on private land without the consent of the owner or occupier.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Issues considered by the Committee

Objective could have been achieved by alternative and more effective means: LRA s 9(1)(b)(v)

Henry VIII clause

3.2 The explanatory note for the Regulation provides that section 9 may be made under a Henry VIII provision because the exemption impliedly amends the *Summary Offences Act 1988* (the **Act**) by affecting the application of the Act.

3.3 Section 9 stipulates that section 11F of the Act, which prohibits the sale of knives to children, does not apply to:

- knives that are:
  - designed to be used for eating, and
  - made of a material other than ceramic or metal,
- blades that are not:
  - knife blades, or
  - part of a cleaver, machete or sword.

Section 9 of the Regulation provides exemptions to section 11F of the *Summary Offences Act 1988* (the Act), which prohibits the sale of knives to children.

The Committee generally prefers amendments to an Act to be made by an amending bill rather than subordinate legislation. This is to foster a greater level of parliamentary oversight, as, unlike for primary legislation, subordinate legislation is not required to be passed by Parliament and Parliament does not control when it commences.

However, the Committee acknowledges that amendment of the Act by subordinate legislation is, in this case, authorised by the principal Act. Section 11F(6) of the Act allows for regulations to stipulate specific classes or descriptions of knives that are exempt from the offence set out in section 11F. Additionally, the Committee notes that the Summary Offences Regulation 2020, which this Regulation is repealing and remaking, included very similar clauses, which had the same effect. In the circumstances, the Committee makes no further comment.

4. Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025

Date tabled	LA: 16 September 2025 LC: 16 September 2025
Disallowance date	LA: 19 November 2025 LC: TBC
Minister responsible	The Hon. Rose Jackson MLC
Portfolio	Water

Purpose and description

4.1 The object of the Regulation is to amend the Water Management (General) Regulation 2025 to:

(a) establish water return flow rules to enable water allocations that are used under prescribed access licences for taking water from regulated river water sources for certain environmental purposes to be recredited to the licences

(b) provide exemptions subject to conditions from the requirement to hold a water access licence:

(i) for certain public authorities for taking water from unregulated river water sources for environmental purposes

(ii) for the Murray-Darling Basin Authority, Water NSW and other persons for taking water from regulated river water sources when delivering water in certain circumstances.

Issues considered by the Committee

Objective could have been achieved by alternative and more effective means: s 9(1)(b)(v) of the LRA

Henry VIII clause

4.2 The explanatory note for the Regulation states that it is made under the *Water Management Act 2000* (the **Act**), including section 400(2), which is a Henry VIII provision because it permits exemptions from the Act. Section 400(2) allows regulations to make provision for exemptions, either unconditionally or subject to conditions.

4.3 Part 2 of the Act makes provision for water access licences, and section 60A makes it an offence to take water from certain water sources without a water access licence.

4.4 Section 5A of the Regulation exempts certain public authorities, as defined in subsection 5A(5), from the requirement to hold a water access licence when taking water from unregulated river water sources for environmental purposes. Subsection 5A(3) provides that an exemption under section 5A is subject to a number of conditions, including that the person must record the amount of water taken and provide a copy of the record to the Minister.

4.5 Section 5B of the Regulation exempts the Murray-Darling Basin Authority, Water NSW, and other persons requested by Water NSW from the requirement to hold a water access licence when taking water from regulated river water sources for the delivery of water in certain circumstances.

The Regulation inserts sections 5A and 5B into *the Water Management (General) Regulation 2025*, which would provide exemptions from the requirement to hold a water access licence under section 60A of the *Water Management Act 2000* (the Act).

The Regulation is made under section 400(2) of the Act, which permits exemptions from the Act. This is a Henry VIII provision because it allows the Executive to amend the principal Act by way of regulation, without reference to Parliament. The Committee generally prefers amendments to an act to be made by an amending bill rather than through subordinate legislation. This is to provide for a greater level of parliamentary oversight, as, unlike primary legislation, subordinate legislation is not required to be passed by Parliament.

However, the Committee acknowledges that section 400(2) of the principal Act allows for the regulations to permit exemptions from the Act. The exemption under section 5A of the Regulation is also subject to a number of conditions, which may limit the exemptions granted. Further, the Committee notes that regulations are required to be tabled in Parliament and are subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.

Part Three – Regulations without comment

Regulations without comment

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

1. Co-operative Housing and Starr-Bowkett Societies Regulation 2025

The object of the Regulation is to remake, with minor changes, the Co-operative Housing and Starr-Bowkett Societies Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) registers required to be kept by co-operative housing societies

(b) requirements for annual returns

(c) the application of provisions of the *Corporations Act 2001* of the Commonwealth to the winding up of co-operative housing societies

(d) functions of associations of societies

(e) procedures for postal ballots

(f) fees payable for administrative matters.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Co-operative Housing and Starr-Bowkett Societies Act 1998*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

2. Director of Public Prosecutions Regulation 2025

The object of the Regulation is to repeal and remake, with minor amendments, the Director of Public Prosecutions Regulation 2020, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) the summary offences that are prescribed summary offences for the purposes of the *Director of Public Prosecutions Act 1986*

(b) the form in which law enforcement or investigating officers must disclose certain information, documents and things obtained during an investigation to the Director of Public Prosecutions.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Director of Public Prosecutions Act 1986.* It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987.*

3. Mine and Petroleum Site Safety (Cost Recovery) Regulation 2025

The object of the Regulation is to remake, without substantial changes, the Mine and Petroleum Site Safety (Cost Recovery) Regulation 2019, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) authorises money to be paid from the Mine and Petroleum Site Safety Fund (the **Fund**) to meet certain expenditure incurred by the Department of Primary Industries and Regional Development (the **Department**)

(b) requires the Secretary of the Department (the **Secretary**) to prepare a report containing an overview of payments made from the Fund during the financial year

(c) authorises members of staff of the State Insurance Regulatory Authority as a class of persons to whom the Secretary may delegate the Secretary's functions under the *Mine and Petroleum Site Safety (Cost Recovery) Act 2005.*

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters of a machinery nature.

The Regulation was made under the *Mine and Petroleum Site Safety (Cost Recovery) Act 2005.* It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

4. Succession Regulation 2025

The object of the Regulation is to repeal and remake, with minor changes, the Succession Regulation 2020, which would otherwise be repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation prescribes the fee that must accompany a will deposited with the Registrar under the *Succession Act 2006*, section 51.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely, matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The regulation is made under the *Succession Act 2006.* It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987.*

5. Trustee Regulation 2025

The object of the Regulation is to remake, without substantial changes, the Trustee Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) sets out guidelines for the investment of trust funds where the value of the funds subject to the trust is not more than $50,000

(b) prescribes classes of insurers for the purposes of insuring the repayment of loans secured by property in certain circumstances

(c) prescribes the persons that may act as agents for receiving and paying money in connection with the execution of trusts and the administration of estates.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Trustee Act 1925*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

6. Crimes (Domestic and Personal Violence) Regulation 2025

The object of the Regulation is to remake, without substantial changes, the Crimes (Domestic and Personal Violence) Regulation 2019, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for:

(a) the records that must be created by a police officer when a person is detained under the *Crimes (Domestic and Personal Violence) Act 2007*, Part 11

(b) the form of an application notice for an apprehended personal violence order and an apprehended domestic violence order.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely, matters of a machinery nature.

The Regulation is made under the *Crimes (Domestic and Personal Violence) Act 2007*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

7. Industrial Relations Commission (Amendment No 1) Rules 2025

The object of the Rules is to make further provision relating to proceedings before the Industrial Court for the recovery of money and civil penalties, proceedings for unfair contracts and small claims applications.

The Rules are made under the *Industrial Relations Act 1996.* They do not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

8. Police Amendment Regulation 2025

The object of the Regulation is to amend the Police Regulation 2015 to:

(a) provide that an incapacitated police officer is eligible to apply for catastrophic or exceptional extension payments under the police officer support scheme (the **scheme**) if the officer:

(i) is a contributor to the State Authorities Superannuation Fund who is not covered by the additional benefit under the *State Authorities Superannuation Act 1987*

(ii) is, under the *Police Act 1990*, section 199C, required to contribute to the cost to the State of the scheme at the rate prescribed under the Police Regulation 2015, clause 135ZN, which is currently 1.8% of the officer's remuneration

(b) clarify that if a police officer's application for catastrophic or exceptional extension payments is suspended because the officer fails to comply with a request for further information or further assessment in relation to the application and the officer subsequently complies with the request, any payments to which the officer would have been entitled but for the failure to comply may be re-instated

(c) provide that the following payments are not to be considered additional income for determining the amount of payments to the officer under the scheme:

(i) the payment of a non-renewal benefit under the Crown Employees (Police Officers – 2024) Award

(ii) welfare, social security or other support payments, benefits or allowances from the Australian Government

(iii) payments for pain and suffering that an incapacitated police officer receives under the *Workers Compensation Act 1987*, section 67

(d) update a clause heading and note to reflect that police officers who are required to contribute to the cost to the State of the scheme at the rate prescribed under the Police Regulation 2015, clause 135ZM, which is currently 0.88% of the officer's remuneration, are now covered for off-duty injuries in addition to on-duty injuries, but not for death or catastrophic or exceptional extension payments

(e) make other minor amendments, including amendments to:

(i) remove redundant references to the Court of Appeal and the Auditor-General

(ii) enable the Treasurer to ask the Auditor-General to conduct performance audits of the scheme

(iii) clarify a cross-reference to a repealed provision of the *Police Act 1990*

(iv) correct the maximum penalty that may be imposed for the offence of failing to comply with a requirement to give documents and information in a dispute before the Commission from 50 penalty units to 20 penalty units.

The Regulation is made under the *Police Act 1990*, including sections 199C, 199D and 219, 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*.

9. Work Health and Safety Amendment (Silica Worker Register) Regulation 2025

The object of the Regulation is to amend the Work Health and Safety Regulation 2017 to:

(a) set out the information a person conducting a business or undertaking involved in high risk processing of crystalline silica substances must give to SafeWork NSW for inclusion on the silica worker register

(b) make it a penalty notice offence to fail to give the required information to SafeWork NSW

(c) authorise the Workers Compensation (Dust Diseases) Authority to access the silica worker register

(d) authorise the use of information on the silica worker register for certain purposes.

The Regulation is made under the *Work Health and Safety Act 2011*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

10. Border Fence Maintenance Regulation 2025

The object of the Regulation is to repeal and remake, with minor changes, the Border Fence Maintenance Regulation 2018, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) annual rates payable

(b) interest payable on overdue rates

(c) the form of rate notices

(d) savings and formal matters.

The Regulation is made under the *Border Fence Maintenance Act 1921*, and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

11. Child Protection (Offenders Prohibition Orders) Regulation 2025

The object of the Regulation is to remake, with minor changes, the Child Protection (Offenders Prohibition Orders) Regulation 2018, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) restricts the publication of information identifying:

  (i) a person subject to particular orders made in other jurisdictions that are similar in nature to child protection prohibition orders made under the *Child Protection*

(Offenders Prohibition Orders) Act 2004, section 5 (**corresponding prohibition orders**)

(ii) a person at risk because of the conduct prohibited by a corresponding prohibition order

(b) recognises and gives effect to corresponding prohibition orders

(c) confers jurisdiction on the Local Court to vary or revoke corresponding prohibition orders

(d) prescribes the police officer in charge of the Child Protection Register of the NSW Police Force as the only person to whom the Commissioner of Police may delegate particular functions in relation to child protection prohibition orders or contact prohibition orders against registrable persons under 18 years of age.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Child Protection (Offenders Prohibition Orders) Act 2004*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

12. Law Enforcement (Controlled Operations) Regulation 2025

The object of the Regulation is to repeal and remake, with minor amendments, the Law Enforcement (Controlled Operations) Regulation 2017, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) prescribes certain Commonwealth agencies as law enforcement agencies for the purposes of the *Law Enforcement (Controlled Operations) Act 1997* (the **Act**)

(b) provides for the circumstances in which an urgent application for an authority to conduct a controlled operation other than a cross-border controlled operation, or an urgent application for a variation of the authority, may be made

(c) requires certain records to be kept in relation to urgent applications

(d) provides for matters to be included in reports on completed authorised operations

(e) prescribes a code of conduct for authorised operations

(f) enables the delegation of the functions of a chief executive officer under the Act to certain persons.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Law Enforcement (Controlled Operations) Act 1997* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

13. Property (Relationships) Regulation 2025

The object of the Regulation is to remake, with minor amendments, the Property (Relationships) Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for matters about the practice and procedure for certain proceedings and orders made under the *Property (Relationships) Act 1984*.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Property (Relationships) Act 1984* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

14. Health Legislation Amendment (Fees) Regulation 2025

The object of the Regulation is to increase certain licence and other fees charged under Acts administered by the Minister for Health.

The Regulation is made under the *Assisted Reproductive Technology Act 2007,* the *Mental Health Act 2007*, and the *Private Health Facilities Act 2007*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

15. Legal Profession Uniform Law Application Regulation 2025

The object of the Regulation is to remake, with some changes, the Legal Profession Uniform Law Application Regulation 2015, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation does the following:

(a) provides for local practicing certificates, including standard renewal periods and fees, and requires an application from the Crown Solicitor to be accompanied by a report of the Auditor-General as to the Crown Solicitor's Trust Account

(b) requires law practices and barristers to comply with certain requirements in relation to trust accounts

(c) fixes costs for certain legal work and requires certain disclosures in personal injury matters

(d) provides for the application, determination and review of costs assessments, including authorising the Chief Justice of the Supreme Court to approve forms

(e) specifies information that must be included in the register of local practising certificates and Register of Disciplinary Action

(f) sets the fee for admission to the Australian legal profession in New South Wales

(g) fixes the maximum aggregate amount that may be paid from the Fidelity Fund in relation to a law practice

(h) enables orders for costs in disciplinary proceedings to be made for or against the Law Society of New South Wales or the New South Wales Bar Association.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

The Regulation is made under section 59(1)(f) of the *Legal Profession Uniform Law Application Act 2014*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

16. NSW Admission Board Fifth Amendment Rule 2025

The object of the Rule is to amend Rule 4 of the NSW Admission Board Rules 2015 to remove a definition that is not used in the Rules and place a number of definitions in the correct alphabetical order.

The Rule commenced on 29 August 2025 and is made under the *Legal Profession Uniform Law Application Act 2014*. The Rule makes minor amendments that do not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

17. NSW Admission Board Sixth Amendment Rule 2025

The object of the Rule is to accommodate the new process that will be introduced later in 2025, which will allow for most of the Board’s applications to be made online instead of by prescribed paper forms.

The Rule commenced on 29 August 2025 and is made under the *Legal Profession Uniform Law Application Act 2014*. The Rule makes minor amendments that do not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

18. NSW Admission Board Seventh Amendment Rule 2025

The object of the Rule is to make minor amendments to Rule 67, including re-ordering sub-rules (2) and (3) to make the rule proceed in logical order.

The Rule amends Rule 67 to provide for applications for the relaxation of exclusion rules, the determination of those applications, and making of guidelines on the operation of the Rule.

The Rule commenced on 29 August 2025 and is made under the *Legal Profession Uniform Law Application Act 2014*. The Rule makes minor amendments that do not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

19. Practice Note – Temporary Court Closure AVL Proceedings

The Practice Note applies to the Downing Centre Local Court and the Waverley Local Court. The purpose of the Practice Note is to direct the AVL appearance of defendants in custody, having regard to the resource constraints imposed by the temporary closure of the Downing Centre Local Court, and provided that the accused person or their legal representative consents to do so.

The Practice Note commenced on 7 July 2025 and expires on 25 December 2025 unless revoked earlier or extended by the Chief Magistrate. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

20. Local Government Legislation Amendment (Repeals) Regulation 2025

The object of the Regulation is to amend the following regulations to prevent their repeal on 1 September 2025:

(a) the Local Government (General) Regulation 2021

(b) the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

The Regulation is made under the *Local Government Act 1993*, including section 748, the general regulation making power. It does not attempt to prevent the automatic repeal of the relevant regulations by the *Subordinate Legislation Act 1989*, section 10(2), which was due to occur on 1 September 2026, and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

21. Meat Industry (Meat Industry Levy) Regulation 2025

The object of the Regulation is to remake, with changes, the Meat Industry (Meat Industry Levy) Regulation 2016, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) the calculation of and applicable rates for meat industry levies

(b) the giving of notices of amounts of meat industry levies and changes of occupancy or ownership of land

(c) applications for certificates as to the amounts of meat industry levies due and unpaid

(d) objections to the validity of meat industry levies

(e) the interest payable on overdue meat industry levies

(f) the keeping of levy books for recording particulars relating to meat industry levies

(g) other formal matters.

The Regulation is made under the *Meat Industry Act 1978* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

22. Mining Amendment (Arbitration) Regulation 2025

The object of the Regulation is to amend the Mining Regulation 2016 to broaden the eligibility criteria for appointment to the Arbitration Panel established under the *Mining Act 1992*.

The Regulation is made under the *Mining Act 1992* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

23. Motor Accidents (Lifetime Care and Support) Regulation 2025

The object of the Regulation is to repeal and remake, without substantial changes, the Motor Accidents (Lifetime Care and Support) Regulation 2020, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) authorises the appointed directors of the board of Insurance and Care NSW as a class of persons to whom the Lifetime Care and Support Authority of New South Wales may delegate the Authority's functions

(b) prescribes the *Lifetime Care and Support (Catastrophic Injuries) Act 2014* of the Australian Capital Territory as a care and support scheme for the *Motor Accidents (Lifetime Care and Support) Act 2006*, section 43A.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Motor Accidents (Lifetime Care and Support) Act 2006* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

24. Motor Dealers and Repairers Regulation 2025

The object of the Regulation is to remake, with amendments, the Motor Dealers and Repairers Regulation 2014, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation deals with the following matters:

(a) the licensing of motor dealers, motor vehicle repairers and motor vehicle recyclers

(b) tradespersons' certificates and the classes of repair work

(c) the conduct of business by motor dealers, motor vehicle repairers and motor vehicle recyclers

(d) the records required to be kept by motor dealers, motor vehicle repairers and motor vehicle recyclers

(e) requirements relating to dealers' notices

(f) requirements relating to sales on consignment

(g) exemptions from certain provisions of the *Motor Dealers and Repairers Act 2013* (the **Act**)

(h) fees payable for the purposes of the Act

(i) the offences under the Act and this regulation for which penalty notices may be issued

(j) savings and formal matters

(k) other miscellaneous matters.

The Regulation is made under the *Motor Dealers and Repairers Act 2013* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

25. Motor Vehicle Sports (Public Safety) Regulation 2025

The object of the Regulation is to remake, with minor changes, the Motor Vehicle Sports (Public Safety) Regulation 2015, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation makes provision for the following:

(a) licences to use land for motor vehicle racing

(b) motor vehicle racing grounds

(c) the conduct of motor vehicle race meetings and the safety of persons during those meetings

(d) the membership of advisory committees

(e) savings and formal matters.

The Regulation is made under the *Motor Vehicle Sports (Public Safety) Act 1985*, including sections 4, 6(a), 16(2)(a) and 17, the general regulation-making power.

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

26. Police Superannuation Regulation 2025

The object of the Regulation is to remake, with minor changes, the Police Superannuation Regulation 2020.

The Regulation provides for the following matters:

(a) benefit reductions relating to income tax, superannuation contributions surcharge, no-TFN tax and early release of benefits

(b) family law superannuation provisions

(c) medical examinations of former members of the NSW Police Force by the Police Medical Board

(d) minor and miscellaneous matters.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory

(c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Police Regulation (Superannuation) Act 1906* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

27. Protection from Harmful Radiation Regulation 2025

The object of the Regulation is to repeal and remake, with amendments, the Protection from Harmful Radiation Regulation 2013, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) prescribes standard conditions on radiation management licences requiring licence holders to:

   (i) comply with adopted National Directory documents

   (ii) have, and ensure compliance with, radiation management plans for regulated material

(b) provides for exemptions from the requirement to hold a radiation management licence or radiation user licence for particular persons or in relation to particular regulated material

(c) imposes an obligation on persons responsible for regulated material to ensure persons using the regulated material under an exemption:

   (i) meet the requirements for the exemption

   (ii) if the person using the regulated material is required to be supervised under the exemption—are supervised in the way required under the exemption

(d) imposes an obligation on a person who is supervising another person who is using regulated material under an exemption to provide the kind of supervision required under the exemption

(e) imposes an obligation on persons using regulated material under an exemption to:

  (i) comply with relevant requirements of prescribed codes of practice and Australian standards for the regulated material

  (ii) comply with the radiation management plan for the regulated material

  (iii) notify the person responsible for the regulated material of any faults or defects in the regulated material and of any radiation incidents

  (iv) comply with exposure dose limits for the regulated material

(f) provides for the approval by the Authority of courses required for licences, accreditations or exemptions

(g) prescribes the activities of consulting radiation experts and radiation security assessors

(h) prescribes additional matters that must be dealt with in security plans

(i) prescribes the security measures that a person responsible for a security enhanced source is required to comply with in relation to the source

(j) imposes a duty to report breaches of security measures

(k) prescribes all security enhanced sources as sources in relation to which users must have undergone and satisfied identity checks

(l) prescribes the requirements for carrying out and keeping records of identity checks

(m) provides for radiation safety in the workplace, including exposure dose limits and requiring the radiation doses received by a person in the course of the person's employment to be monitored

(n) requires adherence to certain standards where a person is exposed to ionising radiation for scientific or research purposes

(o) imposes requirements relating to the safe disposal of regulated material

(p) sets out the procedure for dealing with, including reporting, investigating and recording, radiation incidents

(q) prohibits the commercial use of tanning units

(r) provides for the appointment of radiation safety officers and committees

(s) requires the reporting of the loss or theft of regulated material and security enhanced sources

(t) requires warning signs to be displayed by the occupier of premises in or on which certain radiation apparatus and radioactive substances are kept

(u) provides that certain functions of the Authority and the CEO of the Authority under the Act may be exercised by the Secretary of the Department of Primary Industries and Regional Development

(v) declares certain offences to be penalty notice offences and prescribes the penalty for those offences

(w) provides for certain exemptions from compliance with all or certain specified provisions of the *Protection from Harmful Radiation Act 1990* and this regulation

(x) prescribes certain matters in relation to the definitions of radioactive ore, radioactive substance and security enhanced source

(y) prescribes fees for the *Protection from Harmful Radiation Act 1990* and this regulation

(z) provides for other miscellaneous matters of an administrative, savings or transitional nature.

The Regulation includes provisions, including sections 10, 11, 33, 36, 39, 44, 45, 47, 53, 56, 58, 60, 62, 66, 68 and 69, that are quasi legislation because the provisions incorporate the following non-legislative instruments:

(a) *The 2007 Recommendations of the International Commission on Radiological Protection*, numbered ICRP Publication 103 and published for the International Commission on Radiological Protection

(b) AS/NZS 2243.4:2018, *Safety in laboratories, Part 4: Ionizing radiations* published by Standards Australia

(c) *Code for the Disposal of Radioactive Waste by the User* published by the Australian Radiation Protection and Nuclear Safety Agency

(d) *Code for Radiation Protection in Dental Exposure* published by the Australian Radiation Protection and Nuclear Safety Agency

(e) *Code for Radiation Protection in Medical Exposure* published by the Australian Radiation Protection and Nuclear Safety Agency

(f) *Code for Radiation Protection in Planned Exposure Situations* published by the Australian Radiation Protection and Nuclear Safety Agency

(g) *Code of Practice: Radiation Protection in the Application of Ionizing Radiation by Chiropractors* published by the Australian Radiation Protection and Nuclear Safety Agency

(h) *Code of Practice and Safety Guide for Portable Density/Moisture Gauges Containing Radioactive Sources* published by the Australian Radiation Protection and Nuclear Safety Agency, Protection from Harmful Radiation Regulation 2025 [NSW] Explanatory note Page 3 Published LW 29 August 2025 (2025 No 461)

(i) *Code of Practice and Safety Guide for Radiation Protection in Veterinary Medicine* published by the Australian Radiation Protection and Nuclear Safety Agency

(j) *Code of Practice for Exposure of Humans to Ionizing Radiation for Research Purposes* published by the Australian Radiation Protection and Nuclear Safety Agency

(k) *Code of Practice for Protection Against Ionizing Radiation Emitted from X-ray Analysis Equipment* published by the National Health and Medical Research Council

(l) *Code of Practice for the Security of Radioactive Sources* published by the Australian Radiation Protection and Nuclear Safety Agency

(m) *Code of Radiation Protection Requirements for Industrial Radiography* published by the Australian Radiation Protection and Nuclear Safety Agency

(n) *Estimating financial assurances: Guideline on Independent Assessment of Costs* published by the Environment Protection Authority

(o) *Financial Assurance Policy* published by the Environment Protection Authority

(p) the national guidance documents titled “National Directory for Radiation Protection” approved by the Health Ministers for the States, Territories and Commonwealth

(q) *Radiation Guideline 1: Monitoring devices* published by the Environment Protection Authority

(r) *Radiation Protection and Safety of Radiation Sources: International Basic Safety Standards, General Safety Requirements Part 3* published by the International Atomic Energy Agency

(s) *Requirements for identity checks* published by the Environment Protection Authority.

The Regulation is made under the *Protection from Harmful Radiation Act 1990* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

28. Erratum for Public Notaries Appointment Amendment Rule 2025

The Notice corrects a typographical error in Rule 12 in the notice of the Public Notaries Appointment Amendment Rule 2025.

The Notice of the Erratum 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*.

29. Public Notaries Appointment Second Amendment Rule 2025

The object of the Rule is to amend the Public Notaries Appointment Rules to accommodate the new process that will be introduced later in 2025, which will allow for applications made under the Rules to be made online instead of by prescribed paper forms.

This 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*.

30. State Authorities Non-contributory Superannuation Regulation 2025

The object of the Regulation is to remake, with minor changes, the State Authorities Non-contributory Superannuation Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following matters:

(a) the reduction of benefits payable in relation to employees or former employees to whom a benefit has been released on the grounds of severe financial hardship or on compassionate grounds

(b) the reduction of benefits to offset certain tax liabilities

(c) the making of family law superannuation payments in relation to spouses or former spouses of employees or former employees

(d) the treatment of shift allowance loading as part of an employee's salary

(e) the determination of eligible service of employees

(f) death or incapacity benefits for firefighters

(g) the prescribed percentage of an employee's salary payable as additional contributions under the *State Authorities Non-contributory Superannuation Act 1987*, section 16A.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory

(c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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

31. State Authorities Superannuation Regulation 2025

The object of the Regulation is to remake, with minor changes, the State Authorities Superannuation Regulation 2020, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) the reduction of benefits to offset particular tax liabilities

(b) the reduction of benefits payable for contributors to whom benefits have been released

(c) the making of family law superannuation payments

(d) the benefits payable for firefighters, police officers and ambulance officers

(e) the prescribed early retirement age

(f) the treatment of shift allowance loading as part of a contributor's salary

(g) the minimum amount required for an election to defer a benefit

(h) savings, transitional and formal matters.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory

(c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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

32. Valuation of Land Regulation 2025

The object of the Regulation is to repeal and remake, without substantial amendments, the Valuation of Land Regulation 2018, which would otherwise have been repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

(a) prescribes kinds of leases that make subject land Crown lease restricted for the determination of land value under the *Valuation of Land Act 1916*, section 14I

(b) provides for the way objections to valuations may be lodged or withdrawn and other notices given.

The Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely:

(a) matters of a machinery nature

(b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Valuation of Land Act 1916* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

33. Zoological Parks Regulation 2025

The object of the Regulation is to remake, with amendments, the Zoological Parks Regulation 2019, which was repealed on 1 September 2025 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation provides for the following:

(a) regulating entry to land vested in or held by the Zoological Parks Board and on which a zoological park is established or maintained (**zoological park land**)

(b) regulating conduct on zoological park land

(c) regulating the entry of vehicles onto, and regulating vehicles on, zoological park land

(d) the removal of persons from zoological park land

(e) savings and formal matters.

The Regulation is made under the *Zoological Parks Board Act 1973* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

34. Industrial Relations Commission of NSW Practice Note 14B

The purpose of the Practice Note is to provide for the resolution of matters commenced under Part 9 of Chapter 2 or Part 2 of Chapter 7 of the *Industrial Relations Act 1996*, the *Fair Work Act 2009* (Cth) or other proceedings for recovery of money under relevant legislation and referred to the Industrial Relations Commission for conciliation by making standard directions. The Practice Note commenced on 3 September 2025 and replaces Practice Note 14A, which was issued on 4 June 2025.

The standard directions provide for proceedings to be conducted in an efficient and expeditious matter, and for practitioners to facilitate the just, quick and cost-effective disposal of proceedings.

The Practice Note is made under section 185A of the *Industrial Relations Act 1996* and section 15 of the *Civil Procedure Act 2005*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

35. Local Government (General) Amendment (Model Code of Meeting Practice) Regulation 2025

The object of the Regulation is to amend the Local Government (General) Regulation 2021 to provide for the following:

(a) specifying what is an act of disorder by a councillor at a meeting of the council or a committee of the council

(b) specifying actions the chairperson of the meeting may take when an act of disorder occurs

(c) prescribing a new model code of meeting practice for the conduct of meetings of councils and committees of councils

(d) making transitional arrangements in relation to the adoption by councils of mandatory provisions of the new model code of meeting practice

(e) requiring a council to make audio visual recordings of a meeting of the council or committee of the council publicly available on a council website at the same time the meeting takes place

(f) specifying the period for which the recording must continue to be available on the website.

The Regulation is made under the *Local Government Act 1993*, including sections 360, 490A and 748, the general regulation-making power, and Schedule 6. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

36. Local Government (General) Amendment (Mutual Recognition of Approvals) Regulation 2025

The object of the Regulation is to establish a scheme for mutual recognition by councils of approvals granted under the *Local Government Act 1993*, Chapter 7, Part 1 for certain activities.

The Regulation is made under the *Local Government Act 1993* 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. 38

TIME & DATE: 3.01PM, 20 OCTOBER 2025

LOCATION: ROOM 1136 AND VIA VIDEOCONFERENCE

MEMBERS PRESENT

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

APOLOGIES

Ms Davis.

OFFICERS PRESENT

Rohan Tyler, Carly McKenna, Alex Read, Joan Douce, Natasha Moir and Art Bae.

AGENDA ITEM

1. **Confirmation of minutes**

   Resolved, on the motion of Mr Murphy: That the minutes of the meeting of 13 October 2025 be confirmed.

2. ***

3. **Consideration of bills with comment for Legislation Review Digest 37/58**

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

   a) 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2025
   b) Crimes (Administration of Sentences) Amendment (Standard of Proof) Bill 2025
   c) Energy Legislation Amendment Bill 2025
   d) Local Government and Other Legislation Amendment (Councillor Conduct) Bill 2025
   e) Retail Leases Amendment (Review) Bill 2025
   f) Road Transport and Other Legislation Amendment (Micromobility Vehicles and Smartcards) Bill 2025
   g) Roads Legislation Amendment (NSW Motorways) Bill 2025
   h) Voluntary Assisted Dying Amendment (Residential Facilities) Bill 2025.

4. **Consideration of bills without comment for Legislation Review Digest 37/58**

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

   a) Crimes Legislation Amendment (Domestic Violence and Sexual Offences) Bill 2025

b) Gaming Machines Amendment (Mandatory Shutdown Period) Bill 2025.

5. Consideration of regulations with comment for Legislation Review Digest 37/58

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

a) Co-operatives (New South Wales) Regulation 2025
b) Registered Clubs Regulation 2025
c) Summary Offences Regulation 2025
d) Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025.

6. Consideration of regulations without comment for Legislation Review Digest 37/58

Resolved, on the motion of Ms Higginson: That the Committee adopts the regulations without comment as Part Three to Digest No. 37/58.

7. Legislation Review Digest 37/58

Resolved, on the motion of Mr Murphy:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts Legislation Review Digest No. 37/58 and that it be signed by the Chair and presented to the House.

8. Regulations to be reviewed

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

Resolved, on the motion of Mr Murphy: That the Committee consider all regulations and statutory instruments that are currently subject to disallowance (tabled 9 September, 11 September, 16 September and 14 October 2025), even if the relevant regulations have been disallowed by the time the next Digest is adopted.

9. ***

10. Next Meeting

The meeting adjourned at 3.06pm until Monday 10 November 2025.