

Legislation Review Committee



PARLIAMENT OF
NEW SOUTH WALES

Legislation Review Digest



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

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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. Crimes Amendment (Defence of Dwellings and Other Premises) Bill 2025*

Issues identified	Conclusion of Committee
Disproportionate use of force impacting the right to security of the person and the right to life	Referred

2. Environment and Water Legislation Amendment Bill 2025

No further comment

3. Evidence Based AVO Amendment Bill 2025*

Issues identified	Conclusion of Committee
Limiting judicial discretion – separation of powers	Referred

4. Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025

Issues identified	Conclusion of Committee
Retrospective application of laws	Referred
Reversal of the onus of proof	Referred
Commencement by proclamation	Referred

5. Road Legislation Amendment (Speed Limits) Bill 2025*

No issues identified

6. Sporting Venues Authorities Amendment Bill 2025

No issues identified

7. Summary Offences and Other Legislation Amendment (Public Assemblies) Bill 2025*

Issues identified	Conclusion of Committee
Implied freedom of political communication - power to issue move-on directions	No further comment
Limiting judicial discretion – mandatory considerations	No further comment
Power to remove or detain persons wearing a mask – freedom from arbitrary detention	Referred
Discretionary power to require organisers of public assemblies to pay for policing	Referred

8. Workers Compensation Legislation Amendment (Firefighters) Bill 2025

Issues identified	Conclusion of Committee
Significant matters deferred to the regulations	No further comment
Commencement by proclamation	No further comment
Incorporating significant matters in external documents not subject to disallowance	Referred

Summary of Conclusions

PART ONE – BILLS

1. Crimes Amendment (Defence of Dwellings and Other Premises) Bill 2025*

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

Disproportionate use of force impacting the right to security of the person and the right to life

The Bill seeks to amend section 420 of the *Crimes Act 1900* to permit acts of 'self-defence' by an individual who uses force against a home intruder to protect a 'dwelling-house', prevent criminal trespass, or remove a person trespassing on a dwelling-house. The Committee notes that this legal defence would have a broad application and may provide legal protection in circumstances where there has been no threat or harm done to a person.

By permitting otherwise unlawful acts that involve the use of force, the Bill may impact on the right to security of person under Article 9 of the International Covenant on Civil and Political Rights (the ICCPR). Where that force inflicts death, the Bill would impact on the right to life under Article 6 of the ICCPR.

The Committee recognises that these rights are not absolute and that derogation from these rights may be warranted in certain circumstances, including measures to protect one's own safety. However, by allowing the use of disproportionate force, the scope of the Bill goes beyond what may be considered reasonable for protection against an intruder, particularly where there is no threat of harm to an individual. In addition, the Bill would effectively delegate law enforcement responsibilities to private individuals. For these reasons, the Committee refers the matter to Parliament for consideration.

2. Environment and Water Legislation Amendment Bill 2025

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

3. Evidence Based AVO Amendment Bill 2025*

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

Limiting judicial discretion – separation of powers

The Bill seeks to amend the *Crimes (Domestic and Personal Violence) Act 2007* so that a person cannot make an application to the NSW Local Court for an apprehended violence order (AVO) unless a judge can identify 'evidence the NSW Police failed to consider or did not consider reasonably'. The Act currently allows courts to make an AVO if an application has been made by a person seeking protection, or by the police on that person's behalf, and the court is satisfied on the balance of probabilities that the person seeking protection has reasonable grounds to fear, and in fact fears, the commission of a domestic or personal violence offence against them.

The proposed amendments would mean that, when a person makes an AVO application, judges would be prevented from independently assessing all available evidence. Instead, judges would be limited to only assessing evidence that has not already been considered by police. The Bill would therefore limit judicial discretion and delegate the initial assessment of evidence to the police, who sit within the executive arm of government. In doing so, the Bill may infringe on the constitutional doctrine of the separation of powers. This doctrine protects the independence of the judiciary from the legislature and executive branches of government.

The Committee notes that, under the proposed amendments, this limitation on judicial discretion would apply without exception. For these reasons, the Committee refers this issue to Parliament for consideration.

4. Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025

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

Retrospective application of laws

The Bill proposes to amend the *Public Health (Tobacco) Act 2008* to expand key definitions in section 50J of the Act, including the definitions of 'lease', 'licence' and 'lessor'. The proposed amendments would expand these terms to include leases and licences where the premises are used for 'the sale of goods or services by retail or wholesale', in addition to retail shops. This would allow a lessor or licensor to terminate a broader range of leases or licences if a closure order is in effect.

The Bill also seeks to insert savings and transitional provision that would apply the proposed amendments to a lease or licence entered into before the commencement of the Act. The Bill may, therefore, apply retrospectively to a broader group of leases or licences.

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 recognises that the provisions are intended to give landlords of wholesale premises the same power to terminate a lease as landlords of retail shops, where illicit conduct is occurring. However, it notes that the retrospective application of the amendments would override existing and agreed terms, such as clauses regarding the termination or breach of a retail lease, which may further impact a person's right to freedom of contract. For these reasons, the Committee refers the matter to Parliament for consideration.

Reversal of the onus of proof

The Bill proposes to amend the *Public Health (Tobacco) Act 2008* to prohibit a commercial lessor from knowingly permitting a person from using the premises to sell illicit tobacco or illegal vaping goods. Proposed subsection 11A(2) provides a defence in proceedings for this offence if the accused satisfies the court that they had a reasonable excuse for permitting the person to use the premises for the sale of illegal tobacco or vaping goods.

The defence provided for under subsection 11A(2) would reverse the onus of proof by requiring that the defendant prove any matter of their innocence. In regard to criminal actions, reversing the onus of proof may undermine a person's right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights. The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to law.

The Committee recognises that the prosecution still bears the onus of proving the elements of the offence, including the mental element of 'knowingly'. It also acknowledges that the presumption of innocence is not absolute, and that defences where the burden of proof shifts to the defendant are not uncommon in criminal law. However, the Committee notes that this offence carries a potential custodial penalty, and that the accused would bear the onus of having to prove that they had a reasonable excuse to avoid this penalty. For these reasons, the Committee refers this matter to Parliament for consideration.

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

Commencement by proclamation

The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions, particularly where the provisions would affect individual rights or obligations.

The Committee acknowledges that commencement by proclamation may be intended to provide greater flexibility to develop the necessary regulatory framework. However, as the Bill introduces a significant new offence that carries a custodial penalty, the Committee refers this matter to Parliament for consideration.

5. Road Legislation Amendment (Speed Limits) Bill 2025*

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

6. Sporting Venues Authorities Amendment Bill 2025

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

7. Summary Offences and Other Legislation Amendment (Public Assemblies) Bill 2025*

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

Implied freedom of political communication - power to issue move-on directions

Proposed subsection 200(5)(a)(iii) of the *Law Enforcement (Powers and Responsibilities) Act 2002* would provide for the circumstances in which police may issue a 'move on' direction in relation to a protest 'in or near a place of worship'. The provision would permit police to issue a move on direction where a person is intentionally obstructing, harassing, intimidating or threatening a person accessing or leaving, or attempting to access or leave, the place of worship.

The Committee notes that the proposed amendments to section 200(5) would address the recent decision of the Supreme Court in *Lees v State of New South Wales*. In that case, the Court declared that section 200(5) was invalid because it impermissibly burdened the implied freedom of political communication. The Court held that the provision was not reasonably appropriate and adapted to its legitimate purpose because it operated by reference to persons 'in or near a place of worship', and not just to those attempting to interfere with persons accessing or leaving, or attempting to access or leave a place of worship.

The Committee acknowledges that while the proposed amendments would allow police to issue move on directions to protesters, they limit the circumstances in which those directions could be given, in line with statements made by the Supreme Court in *Lees*. On that basis, it is unlikely that the proposed provision would be found to impermissibly burden the implied freedom of political communication. Therefore, in the circumstances, the Committee makes no further comment.

Limiting judicial discretion – mandatory considerations

The Bill proposes to insert section 27A into the *Summary Offences Act 1988*. Proposed section 27A would introduce mandatory considerations that the Commissioner of Police, the Supreme Court and the District Court would be required to take into account when making a decision to oppose, prohibit or authorise a public assembly.

The Committee generally comments on provisions that would limit judicial discretion, particularly where that limitation also impacts individual rights or liberties, as this may infringe the constitutional doctrine of the separation of powers. This doctrine protects the independence of the judiciary from the legislature and executive branches of government.

The Committee notes that the mandatory considerations proposed under section 27A are weighted towards prohibiting or opposing a public assembly, because of the inherent nature of those assemblies. The proposed provision does not include countervailing considerations, such as the implied freedom of political communication or the pro-social nature of the proposed assembly.

However, the Committee acknowledges that the provision itself would not prohibit public assemblies. It also acknowledges that the Commissioner or Court would ultimately retain discretion, as the provision would not limit the factors that the court may consider relevant. For these reasons, the Committee makes no further comment.

Power to remove or detain persons wearing a mask – freedom from arbitrary detention

Proposed section 87ZD of the *Law Enforcement (Powers and Responsibilities) Act 2002* would prohibit a person participating in a public assembly from hiding their identity or disguising their appearance, including through the use of a face covering. Proposed subsection 87D(3) would empower police to direct a person contravening the prohibition to surrender the disguise or remove any face paint or make-up covering the person's identity. Police may also direct the person to leave the vicinity, or remove or detain the person. An offence under this proposed section would carry a maximum penalty of an \$11,000 fine (100 penalty units) or 12 months imprisonment.

The Committee acknowledges that the object of the prohibition may be to address legitimate public safety concerns, particularly in relation to recent incidents, where masked protesters have promoted violent and extremist views. However, the Committee notes that subsection 87D(3) would give police a range of powers to enforce the prohibition, including removing or detaining a person. This may infringe on a person's right to liberty and freedom from arbitrary detention. The Committee also notes that contravention of a police direction may carry a custodial penalty. For these reasons, the Committee refers the matter to Parliament for consideration.

Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA

Discretionary power to require organisers of public assemblies to pay for policing

The Bill would insert proposed section 27B into the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPRA), which would allow the Commissioner of Police, the Supreme Court, or the District Court to require the organiser of a repeat public assembly to contribute to the cost of policing the assembly. Proposed subsection 27B(3) would provide the Commissioner with the discretion to specify the whole or part of an amount that, 'in the Commissioner's opinion', is the 'likely cost of policing the public assembly'. The Bill would therefore provide the Commissioner or Court with a discretionary power to determine whether to impose a cost on the organiser of a public assembly, and how much that cost should be.

The Committee generally comments on insufficiently defined administrative powers where individual rights, liberties or obligations are unduly dependent on these powers. In this case, the power to require individuals to pay for the cost of policing may deter impacted individuals from exercising their right to peaceful assembly, under Article 21 of the International Covenant on Civil and Political Rights (the ICCPR). The discretionary nature of this power, without clear criteria or limits on how the costs are determined or imposed, may lead to arbitrary decision-making that impacts particular groups disproportionately. For these reasons, the Committee refers the issue to Parliament for consideration.

8. Workers Compensation Legislation Amendment (Firefighters) Bill 2025

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

Significant matters deferred to the regulations

The Bill would require an advisory panel to assess a volunteer firefighter's workers compensation claim under section 10B of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*. This must include an assessment of whether they have met the 'frontline hazardous firefighting activity test', and whether they have the qualifications in bush firefighting prescribed by the regulations.

By allowing the regulations to prescribe the relevant qualifications that an eligible volunteer firefighter must have, the Bill would defer significant matters to the regulations. The Committee generally prefers substantive matters to be set out in primary legislation, rather than regulations, to ensure an appropriate level of parliamentary oversight. This is particularly important where those matters may impact on individual rights and liberties. In this case, Committee notes that the regulations may significantly impact on the determination of a volunteer firefighter's workers compensation claim.

However, the Committee acknowledges that regulations are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For this reason, the Committee makes no further comment.

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, including to establish administrative procedures necessary to implement the amended and additional provisions. For this reason, the Committee makes no further comment.

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

Incorporating significant matters in external documents not subject to disallowance

Proposed section 32B of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* requires the Minister for Work Health and Safety to make guidelines that are to be applied by the advisory panel when determining a volunteer firefighter's workers compensation claim. Specifically, the guidelines must be applied when assessing whether a volunteer firefighter meets the 'frontline hazardous firefighting activity test'. The guidelines would be required to specify the operation of the test, including what the panel must consider, and the procedures and timeframes for the panel to conduct reviews and make its report. This means that significant matters would be set out in the guidelines, rather than in the legislation.

The Committee understands that the incorporation of matters into the guidelines may provide greater flexibility and allow updates to reflect changing regulatory advice and practices. However, there does not appear to be any requirement for the guidelines to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny.

The Committee generally prefers that substantive matters are set out in legislation, where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect individual rights and liberties. In this case, the Committee notes that the matters required to be set out in the guidelines may significantly impact on the determination of a volunteer firefighter's workers compensation claim. For this reason, the Committee refers the matter to Parliament for consideration.

Part One – Bills

1. Crimes Amendment (Defence of Dwellings and Other Premises) Bill 2025*

Date introduced	12 November 2025
House introduced	Legislative Council
Member with carriage	The Hon. John Ruddick MLC
	*Private Members Bill

Purpose and description

- 1.1 The object of the Bill is to amend the *Crimes Act 1900* (the **Act**) and other legislation to:
- (a) permit an act of self-defence that involves the infliction of death to protect a dwelling-house or prevent, or remove a person committing, criminal trespass on a dwelling-house in certain circumstances
 - (b) permit the possession of anti-personnel spray by a person, on a 12-month trial basis, but only if the person is over the age of 18, has not committed certain offences and is not the subject of an apprehended violence order or interim apprehended violence order.

Background

- 1.2 The Bill amends the Act to make it permissible for a person to use lethal force against an intruder to protect a 'dwelling-house', and to prevent or remove a person trespassing on a 'dwelling-house'.
- 1.3 The Bill clarifies that a 'dwelling-house' includes a property that the person owns, occupies, manages, or currently resides at.
- 1.4 In his second reading speech, the Hon. John Ruddick MLC stated:

This bill supports an individual's right to use force, including disproportionate force, to protect against violent intruders on their own property that pose a threat to their person, their property and their family.

- 1.5 Mr Ruddick further explained:

The reasoning behind this bill is the doctrine known as castle law, which holds that a householder's home, whether that householder is an owner or a tenant, is their castle and the occupier gets to set the rules in their castle. They get to choose who comes into their castle and they get to choose when someone is asked to leave their castle. Castle law also recognises that the home owner has a legal right to defend their property

and their life from an invader without having to fear being criminally prosecuted for defending themselves.

Issues considered by the Committee

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

Disproportionate use of force impacting the right to security of the person and the right to life

1.6 Division 3 of the *Crimes Act 1900* provides for acts to be carried out in self-defence in a number of circumstances. However, section 420 currently provides that self-defence does not apply if a person uses force that intentionally or recklessly inflicts death only to protect property or prevent criminal trespass.

1.7 The proposed amendments to section 420 would permit this conduct if:

- the intruder:
 - is, or threatens to be, violent
 - is in the company of another
 - causes or threatens damage to a dwelling-house
- the person believes the force is necessary:
 - to defend the person or another person, including an unborn person, from the intruder
 - to prevent or terminate the unlawful deprivation of the person's liberty or the liberty of another person
 - to protect the dwelling-house from damage.

The Bill seeks to amend section 420 of the *Crimes Act 1900* to permit acts of 'self-defence' by an individual who uses force against a home intruder to protect a 'dwelling-house', prevent criminal trespass, or remove a person trespassing on a dwelling-house. The Committee notes that this legal defence would have a broad application and may provide legal protection in circumstances where there has been no threat or harm done to a person.

By permitting otherwise unlawful acts that involve the use of force, the Bill may impact on the right to security of person under Article 9 of the International Covenant on Civil and Political Rights (the ICCPR).¹ Where that force inflicts death, the Bill would impact on the right to life under Article 6 of the ICCPR.

The Committee recognises that these rights are not absolute and that derogation from these rights may be warranted in certain circumstances,

¹ United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

including measures to protect one's own safety. However, by allowing the use of disproportionate force, the scope of the Bill goes beyond what may be considered reasonable for protection against an intruder, particularly where there is no threat of harm to an individual. In addition, the Bill would effectively delegate law enforcement responsibilities to private individuals. For these reasons, the Committee refers the matter to Parliament for consideration.

2. Environment and Water Legislation Amendment Bill 2025

Date introduced	13 November 2025
House introduced	Legislative Council
Member with carriage	The Hon. Penny Sharpe MLC

Purpose and description

2.1 The objects of the Bill are as follows:

- (a) to amend the *National Parks and Wildlife Act 1974*
 - (i) to revoke the reservation status of certain land in the Murrumbidgee National Park
 - (ii) to limit the functions of the Audit and Compliance Committee established under that Act to only overseeing and investigating the Secretary's compliance with the Secretary's obligations under that Act
- (b) to amend the *Water Industry Competition Act 2006* to make it clear that the Independent Pricing and Regulatory Tribunal (**IPART**) must not grant an application by a registered operator or retailer to substitute another operator or retailer for a specified scheme, unless the existing operator or retailer consents to the substitution
- (c) to amend various Acts to update outdated references to "Department", "Director-General", "Secretary" and other renamed or abolished offices
- (d) to make a consequential amendment to *the Interpretation Act 1987* to insert a definition of Department for an Act or instrument.

Background

- 2.2 The Bill proposes to amend 31 pieces of legislation relating to the environment, water, energy and heritage portfolios.
- 2.3 During her second reading speech, the Hon. Penny Sharpe MLC, Minister for Climate Change, Energy, the Environment, and Heritage, explained that the proposed revocation of land in the Murrumbidgee National Park will revoke extra land that is 'already modified and has no impact on park management or conservation'.
- 2.4 The Minister also stated that the proposed amendments regarding the National Parks and Wildlife Audit and Compliance Committee will 'remove duplication of audit responsibilities for national parks'.
- 2.5 In relation to the *Water Industry Competition Act 2006*, the Minister explained that the proposed amendments will allow IPART to approve substitutions with the current

licensee's consent, noting that the 'ability to substitute licensees in such cases is vital to ensure that essential water and sewerage services continue to be provided' when circumstances change.

- 2.6 The remainder of the proposed amendments update miscellaneous references to Ministers, government agencies and agency heads that existed prior to the establishment of the Department of Climate Change, Energy, the Environment and Water.

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*.

3. Evidence Based AVO Amendment Bill 2025*

Date introduced	12 November 2025
House introduced	Legislative Council
Member with carriage	The Hon. Mark Latham MLC
	*Private Members Bill

Purpose and description

- 3.1 The object of the Bill is to amend the *Crimes (Domestic and Personal Violence) Act 2007* (the **Act**) so as to introduce an evidence-based process for private apprehended violence order applications.

Background

- 3.2 The Bill seeks to prevent a person from applying to the Local Court of NSW (the **Court**) for an apprehended violence order (**AVO**) unless a judge identifies 'evidence the NSW Police failed to consider or did not consider reasonably'.
- 3.3 In his second reading speech, the Hon. Mark Latham MLC explained that an application for an AVO had been made against him in the Local Court, which 'made ridiculous, fabricated, totally invented claims of sexual assault and intimidation' against him.
- 3.4 Mr Latham stated that the Bill is:

... designed to ensure private apprehended violence order [AVO] applications in New South Wales only proceed on the basis of prima facie reasons for their acceptance, processing and consideration.

Issues considered by the Committee

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

Limiting judicial discretion – separation of powers

- 3.5 The Act allows AVO applications to be made directly to a court by a person seeking protection, or by a police officer on that person's behalf, as per subsections 48(2)(a) and (b).
- 3.6 Under sections 16 and 19 of the Act, a judge may make an AVO if they have assessed the available evidence and determined, on the balance of probabilities, that the person seeking protection has reasonable grounds to fear, and in fact fears, the commission of a domestic or personal violence offence against them.
- 3.7 The Bill seeks to amend subsection 48(2)(a) so that a person cannot make an AVO application unless they are given prior approval by a judge. Under the proposed

provision, a judge could only approve a person's application if they identify evidence that the NSW Police has 'failed to consider or did not reasonably consider'.

The Bill seeks to amend the *Crimes (Domestic and Personal Violence) Act 2007* so that a person cannot make an application to the NSW Local Court for an apprehended violence order (AVO) unless a judge can identify 'evidence the NSW Police failed to consider or did not consider reasonably'. The Act currently allows courts to make an AVO if an application has been made by a person seeking protection, or by the police on that person's behalf, and the court is satisfied on the balance of probabilities that the person seeking protection has reasonable grounds to fear, and in fact fears, the commission of a domestic or personal violence offence against them.

The proposed amendments would mean that, when a person makes an AVO application, judges would be prevented from independently assessing all available evidence. Instead, judges would be limited to only assessing evidence that has not already been considered by police. The Bill would therefore limit judicial discretion and delegate the initial assessment of evidence to the police, who sit within the executive arm of government. In doing so, the Bill may infringe on the constitutional doctrine of the separation of powers. This doctrine protects the independence of the judiciary from the legislature and executive branches of government.

The Committee notes that, under the proposed amendments, this limitation on judicial discretion would apply without exception. For these reasons, the Committee refers this issue to Parliament for consideration.

4. Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025

Date introduced	12 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Ryan Park MP

Purpose and description

- 4.1 The object of the Bill is to amend the *Public Health (Tobacco) Act 2008* (the **Act**):
- (a) to make it an offence for a commercial lessor to knowingly permit a person to sell illicit tobacco or illicit vaping goods on the lessor's premises
 - (b) to extend the right of a lessor to terminate a retail shop lease or licence for premises for which a closure order is in effect to include the right to terminate a lease or licence for retail or wholesale business in the same circumstances.

Background

- 4.2 The Bill proposes to insert section 11A into the Act, which would make it an offence for a commercial lessor to knowingly permit another person to use those premises to sell illicit tobacco or vaping goods.

- 4.3 During his second reading speech, the Hon. Ryan Park MP, Minister for Health, explained:

The introduction of a landlord offence in New South Wales is intended to address situations where landlords are aware of tenants conducting illicit tobacco and vape businesses from their premises but, instead of notifying authorities or taking steps to evict the tenant, they knowingly permit this illicit activity to continue. This conduct not only undermines legitimate business operations but exposes communities to associated criminal activities and undermines tobacco control efforts—efforts which have spanned the last half a century—across the State.

- 4.4 The offence carries a maximum penalty of a \$165,000 fine (1,500 penalty units), or one year imprisonment, or both. Subsection 11A(3) provides that the defence of reasonable excuse is available to a commercial lessor if they satisfy the court that they had a reasonable excuse for permitting the person to use the premises to sell the illicit tobacco or vaping goods.

- 4.5 The Bill also proposes to amend section 50J(5) to expand key definitions, including 'lease', 'lessor' and 'licence', under the Act.

Issues considered by the Committee

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

Retrospective application of laws

- 4.6 Section 50J of the Act allows a lessor or licensor to terminate a lease or licence if a closure order is in effect. The current definitions of 'lease', 'licence' and 'lessor', under section 50J(5), apply only to leases for retail shops.
- 4.7 The Bill proposes to replace subsection 50J(5) with a new subsection that would:
- expand the definition of 'lease' to include the use of premises for 'the sale of goods or services by retail or wholesale'
 - expand the definition of 'licence' to include the use of premises for 'the sale of goods or services by retail or wholesale'
 - expand the definition of 'lessor' to include a person who grants or proposes to grant the right to occupy the premises for the purpose of the use of the premises for 'the sale of goods or services by retail or wholesale', and includes the person's heirs, executors, administrators and assigns'
 - define 'retail shop' as it is defined in the *Retail Leases Act 1994*.
- 4.8 In his second reading speech, the Minister stated that the bill will 'help futureproof the legislation and ensure landlords of all retail and wholesale premises have the same power to terminate a lease where a closure order has been made.'
- 4.9 The Bill also proposes to insert savings and transitional provisions, which provide that the proposed amendments to subsection 50J(5) would apply to a lease or licence entered into before the commencement of the proposed Act.

The Bill proposes to amend the *Public Health (Tobacco) Act 2008* to expand key definitions in section 50J of the Act, including the definitions of 'lease', 'licence' and 'lessor'. The proposed amendments would expand these terms to include leases and licences where the premises are used for 'the sale of goods or services by retail or wholesale', in addition to retail shops. This would allow a lessor or licensor to terminate a broader range of leases or licences if a closure order is in effect.

The Bill also seeks to insert savings and transitional provision that would apply the proposed amendments to a lease or licence entered into before the commencement of the Act. The Bill may, therefore, apply retrospectively to a broader group of leases or licences.

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 recognises that the provisions are intended to give landlords of wholesale premises the same power to terminate a lease as landlords of retail shops, where illicit conduct is occurring. However, it notes that the retrospective application of the amendments would

override existing and agreed terms, such as clauses regarding the termination or breach of a retail lease, which may further impact a person's right to freedom of contract. For these reasons, the Committee refers the matter to Parliament for consideration.

Reversal of the onus of proof

- 4.10 The Bill proposes to create a new offence under section 11A of the Act, which would prohibit a commercial lessor from knowingly permitting a person to use the premises to sell illegal tobacco or vaping goods. The offence carries a maximum penalty of a \$165,000 fine (1,500 penalty units), or one year imprisonment, or both.
- 4.11 Proposed subsection 11A(2) provides that it is a defence in proceedings for the offence if the commercial lessor satisfies the court that they had a reasonable excuse for permitting the person to use the premises to sell the illicit tobacco or vaping goods.
- 4.12 In his second reading speech, the Minister stated:

This defence, which the landlord bears the onus of proving, ensures that the offence does not capture landlords with a legitimate excuse for allowing illicit conduct to occur on their premises.

The Bill proposes to amend the *Public Health (Tobacco) Act 2008* to prohibit a commercial lessor from knowingly permitting a person from using the premises to sell illicit tobacco or illegal vaping goods. Proposed subsection 11A(2) provides a defence in proceedings for this offence if the accused satisfies the court that they had a reasonable excuse for permitting the person to use the premises for the sale of illegal tobacco or vaping goods.

The defence provided for under subsection 11A(2) would reverse the onus of proof by requiring that the defendant prove any matter of their innocence. In regard to criminal actions, reversing the onus of proof may undermine a person's right to the presumption of innocence, as contained in Article 14 of the International Covenant on Civil and Political Rights.² The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to law.

The Committee recognises that the prosecution still bears the onus of proving the elements of the offence, including the mental element of 'knowingly'. It also acknowledges that the presumption of innocence is not absolute, and that defences where the burden of proof shifts to the defendant are not uncommon in criminal law. However, the Committee notes that this offence carries a potential custodial penalty, and that the accused would bear the onus of having to prove that they had a reasonable excuse to avoid this penalty. For these reasons, the Committee refers this matter to Parliament for consideration.

² United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

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

Commencement by proclamation

- 4.13 Clause 2 of the Bill provides that the Bill commences on a day or days to be appointed by proclamation.

The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions, particularly where the provisions would affect individual rights or obligations.

The Committee acknowledges that commencement by proclamation may be intended to provide greater flexibility to develop the necessary regulatory framework. However, as the Bill introduces a significant new offence that carries a custodial penalty, the Committee refers this matter to Parliament for consideration.

5. Road Legislation Amendment (Speed Limits) Bill 2025*

Date introduced	13 November 2025
House introduced	Legislative Assembly
Member with carriage	Ms Kobi Shetty MP
	*Private Members Bill

Purpose and description

- 5.1 The object of the Bill is to amend:
- (a) the Road Rules 2014 (the **Road Rules**) to provide for lower maximum speed limits for particular areas or zones that may be indicated on particular speed limit signs
 - (b) the *Road Transport Act 2013* to require a review of the operation of the legislation governing speed limit signs.

Background

- 5.2 The Bill proposes to amend the Road Rules to:
- (a) prescribe the speed limit in a school bus zone as 30 kilometres per hour
 - (b) reduce the speed limit in a school zone from 40 kilometres per hour to 30 kilometres per hour
 - (c) prescribe the speed limit in a shared zone as 10 kilometres per hour
 - (d) prescribe the speed limit in a high pedestrian activity area as 30 kilometres per hour
 - (e) prescribe the speed limit in a local traffic area as 30 kilometres per hour
 - (f) prescribe the default speed limit in other built-up areas as 30 kilometres per hour
 - (g) provide for new signage definitions.
- 5.3 The Bill also proposes to amend the *Road Transport Act 2013* to require the Minister to review the operation of the speed limit signage framework and report to Parliament on the outcome of the review.
- 5.4 In her second reading speech, Ms Kobi Shetty MP explained that the Bill:

...proposes evidence-based reforms that are supported by the World Health Organisation and have been implemented in cities around the world to enormous success. The changes in this bill could help to save countless lives. Deaths on our streets are not inevitable, and we should do all within our power to ensure that they do not happen.

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. Sporting Venues Authorities Amendment Bill 2025

Date introduced	11 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon. Stephen Kamper MP

Purpose and description

- 6.1 The object of the Bill is to amend the *Sporting Venues Authorities Act 2008* (the **Act**) in relation to restrictions applied to Venues NSW's land.

Background

- 6.2 The Bill seeks to amend the Act, which currently prohibits the development of visitor and residential accommodation on Venues NSW land. The Bill would apply the existing restrictions on the use of Venues NSW land to scheduled lands only. It would also update a cross-reference that would give effect to the proposed change.
- 6.3 In his second reading speech, the Hon. Stephen Kamper MP, Minister for Sport, stated:

Ultimately, this bill is about ensuring that the State's network of sporting and entertainment venues remains easily accessible and affordable to fans from across Sydney, the regions and those travelling interstate and from overseas. It also encourages economic growth and employment opportunities for local tourism, hospitality and entertainment industries, while delivering on the Government's housing objectives.

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*.

7. Summary Offences and Other Legislation Amendment (Public Assemblies) Bill 2025*

Date introduced	13 November 2025
House introduced	Legislative Assembly
Member with carriage	Mr Alister Henskens MP
	*Private Members Bill

Purpose and description

7.1 The object of the Bill is to amend:

- (a) the *Summary Offences Act 1988* (the **Summary Offences Act**) to make further provision about public assemblies
- (b) the *Law Enforcement (Powers and Responsibilities) Act 2002* (**LEPRA**) to make further provision about the powers of police officers in relation to public assemblies.

Background

7.2 The Bill proposes to amend the Summary Offences Act and the LEPRA to strengthen the framework governing public assemblies.

7.3 In his second reading speech, Mr Alister Henskens MP noted that there have been two 'Nazi protests' since July, and stated that the Bill is a direct response to 'protests putting forward extremist views'.

7.4 The Bill proposes to:

- introduce new requirements, under the Summary Offences Act, for the Commissioner of Police (the **Commissioner**), the Supreme Court and the District Court to consider certain matters before making decisions about the holding of a public assembly
- provide new powers to the Commissioner and Courts, under the Summary Offences Act, to require organisers of public assemblies to contribute to the cost of policing for repeat public assemblies
- create new offences and enforcement mechanisms, under the LEPRA, in connection with the wearing of masks or disguises during a public assembly
- provide for the specific circumstances in which police officers may give move-on directions, under section 200(5) of the LEPRA, in relation to public assemblies 'in or near a place of worship'.

Issues considered by the Committee

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

Implied freedom of political communication - power to issue move-on directions

7.5 The current wording of section 200(5) of the LEPRA allows police officers to give a 'move on' direction in relation to a protest if it is occurring 'in or near a place of worship'.

7.6 In the recent decision of *Lees v State of New South Wales*,³ the Supreme Court of NSW declared that section 200(5) was invalid because it impermissibly burdened the implied freedom of political communication. The Court held that the provision was not 'reasonably appropriate and adapted' to its legitimate purpose because it operated by reference to persons 'in or near a place of worship', and not just to those attempting to access or leave a place of worship.

7.7 Proposed subsection 200(5)(a)(iii) would permit police to issue a move on direction to a person, in relation to a protest in or near a place of worship, where that person is:

- intentionally blocking, impeding or hindering a person accessing or leaving, or attempting to access or leave, the place of worship
- harassing, intimidating or threatening a person accessing or leaving, or attempting to access or leave, the place of worship.

Proposed subsection 200(5)(a)(iii) of the *Law Enforcement (Powers and Responsibilities) Act 2002* would provide for the circumstances in which police may issue a 'move on' direction in relation to a protest 'in or near a place of worship'. The provision would permit police to issue a move on direction where a person is intentionally obstructing, harassing, intimidating or threatening a person accessing or leaving, or attempting to access or leave, the place of worship.

The Committee notes that the proposed amendments to section 200(5) would address the recent decision of the Supreme Court in *Lees v State of New South Wales*. In that case, the Court declared that section 200(5) was invalid because it impermissibly burdened the implied freedom of political communication. The Court held that the provision was not reasonably appropriate and adapted to its legitimate purpose because it operated by reference to persons 'in or near a place of worship', and not just to those attempting to interfere with persons accessing or leaving, or attempting to access or leave a place of worship.

The Committee acknowledges that while the proposed amendments would allow police to issue move on directions to protesters, they limit the circumstances in which those directions could be given, in line with statements made by the Supreme Court in *Lees*. On that basis, it is unlikely that the proposed provision would be found to impermissibly

³ *Lees v State of New South Wales* [2025] NSWSC 1209.

burden the implied freedom of political communication. Therefore, in the circumstances, the Committee makes no further comment.

Limiting judicial discretion – mandatory considerations

7.8 The Bill would insert proposed section 27A into the Summary Offences Act, which sets out mandatory considerations in relation to decisions about public assemblies.

7.9 Proposed section 27A would apply to:

- a decision by the Commissioner about whether or not to oppose the holding of a public assembly, under section 23(1)(f)
- a decision by a Court about whether or not to prohibit the holding of a public assembly, under section 25
- a decision by a Court about whether or not to authorise the holding of a public assembly, under section 26.

7.10 Proposed subsection 27A(2) would require the Commissioner or Court to consider 'all relevant matters', including:

- public safety
- impacts on public amenity and convenience
- adverse impacts on the economy, including businesses
- impacts on groups, organisations or religious groups 'in the vicinity of the public assembly'
- the frequency of similar public assemblies using a similar route or location
- other uses of the route that may be disrupted
- costs incurred by the State in policing the assembly and making or responding to applications.

The Bill proposes to insert section 27A into the *Summary Offences Act 1988*. Proposed section 27A would introduce mandatory considerations that the Commissioner of Police, the Supreme Court and the District Court would be required to take into account when making a decision to oppose, prohibit or authorise a public assembly.

The Committee generally comments on provisions that would limit judicial discretion, particularly where that limitation also impacts individual rights or liberties, as this may infringe the constitutional doctrine of the separation of powers. This doctrine protects the independence of the judiciary from the legislature and executive branches of government.

The Committee notes that the mandatory considerations proposed under section 27A are weighted towards prohibiting or opposing a public assembly, because of the inherent nature of those assemblies. The proposed provision does not include countervailing considerations, such

as the implied freedom of political communication or the pro-social nature of the proposed assembly.

However, the Committee acknowledges that the provision itself would not prohibit public assemblies. It also acknowledges that the Commissioner or Court would ultimately retain discretion, as the provision would not limit the factors that the court may consider relevant. For these reasons, the Committee makes no further comment.

Power to remove or detain persons wearing a mask – freedom from arbitrary detention

- 7.11 The Bill would insert proposed section 87ZD into the LEPRA to prohibit a person participating in a public assembly from hiding their identity or disguising their appearance, including through the use of a face covering.
- 7.12 Proposed subsection 87ZD(2) clarifies that items worn for merely religious purposes are exempt from this section.
- 7.13 Under proposed section 87ZD(3), a police officer may, in the case of a contravention of the prohibition:
- direct a person to surrender or remove the item concealing their identity, including make-up or face paint,
 - direct the person to leave the vicinity of the public assembly,
 - remove the person from the vicinity of the public assembly,
 - detain the person until either the end of the assembly, or the surrender or removal of the item.
- 7.14 Proposed section 87ZD(4) would create a new offence for contravention of a police direction or resisting police. The offence is subject to a maximum penalty of an \$11,000 fine (100 penalty units) or 12 months imprisonment.

Proposed section 87ZD of the *Law Enforcement (Powers and Responsibilities) Act 2002* would prohibit a person participating in a public assembly from hiding their identity or disguising their appearance, including through the use of a face covering. Proposed subsection 87D(3) would empower police to direct a person contravening the prohibition to surrender the disguise or remove any face paint or make-up covering the person's identity. Police may also direct the person to leave the vicinity, or remove or detain the person. An offence under this proposed section would carry a maximum penalty of an \$11,000 fine (100 penalty units) or 12 months imprisonment.

The Committee acknowledges that the object of the prohibition may be to address legitimate public safety concerns, particularly in relation to recent incidents, where masked protesters have promoted violent and extremist views. However, the Committee notes that subsection 87D(3) would give police a range of powers to enforce the prohibition, including removing or detaining a person. This may infringe on a person's right to liberty and freedom from arbitrary detention. The Committee also notes that contravention of a police direction may carry a custodial penalty. For

these reasons, the Committee refers the matter to Parliament for consideration.

Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers: s 8A(1)(b)(ii) of the LRA

Discretionary power to require organisers of public assemblies to pay for policing

- 7.15 The Bill would insert proposed section 27B into the LEPR, which provides that the Commissioner or Court may require the organiser of a repeat public assembly to pay a specified amount to the State as a contribution to the cost of policing the assembly.
- 7.16 A 'repeat public assembly' is defined as a public assembly where, on 3 or more days during the previous 12 months, other public assemblies have been held for 'the same or a similar purpose', regardless of whether the assemblies were held for a full day or only part of a day.
- 7.17 Proposed subsection 27B(3) provides that the specified amount to be paid may be 'the whole or part of the amount that, in the Commissioner's opinion, is the likely cost of policing the public assembly'.
- 7.18 Proposed section 27B(4) would also allow the Commissioner or Court to refuse to make a decision about a public assembly until the specified costs have been paid.
- 7.19 Proposed subsection 27B(5) states that the provision would apply 'subject to the implied constitutional right of freedom of political communication.'

The Bill would insert proposed section 27B into the *Law Enforcement (Powers and Responsibilities) Act 2002* (LEPR), which would allow the Commissioner of Police, the Supreme Court, or the District Court to require the organiser of a repeat public assembly to contribute to the cost of policing the assembly. Proposed subsection 27B(3) would provide the Commissioner with the discretion to specify the whole or part of an amount that, 'in the Commissioner's opinion', is the 'likely cost of policing the public assembly. The Bill would therefore provide the Commissioner or Court with a discretionary power to determine whether to impose a cost on the organiser of a public assembly, and how much that cost should be.

The Committee generally comments on insufficiently defined administrative powers where individual rights, liberties or obligations are unduly dependent on these powers. In this case, the power to require individuals to pay for the cost of policing may deter impacted individuals from exercising their right to peaceful assembly, under Article 21 of the International Covenant on Civil and Political Rights (the ICCPR).⁴ The discretionary nature of this power, without clear criteria or limits on how the costs are determined or imposed, may lead to arbitrary decision-making that impacts particular groups disproportionately. For these reasons, the Committee refers the issue to Parliament for consideration.

⁴ United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

8. Workers Compensation Legislation Amendment (Firefighters) Bill 2025

Date introduced	11 November 2025
House introduced	Legislative Council
Member with carriage	The Hon. John Graham MLC

Purpose and description

- 8.1 The objects of the Bill are to:
- (a) amend the *Workers Compensation Act 1987* (the **Act**) to expand the list of cancers presumed to be work-related for eligible firefighters
 - (b) make consequential amendments to the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* (the **Bush Fire, Emergency and Rescue Services Act**), including providing a presumption that a cancer set out under the Act, Schedule 4, proposed Part 2 contracted by an eligible volunteer firefighter was contracted while fighting a bush fire and that the fighting of the bush fire was a contributing factor to the disease.

Background

- 8.2 The Bill would add an additional ten cancers to the list of presumptive firefighter cancers for workers compensation claims under the Act. These additions have been proposed in response to the findings from the World Health Organisation International Agency for Research on Cancer, which identified firefighting as a cancer-causing profession.
- 8.3 The Bill would also expand the scope of the existing presumption under the Bush Fire, Emergency and Rescue Services Act to include eligible volunteer firefighters. Volunteer firefighters would be required to demonstrate that they have met the 'frontline hazardous firefighting activity test' and that they have particular qualifications in bush firefighting.
- 8.4 An advisory panel, to be appointed by the Minister for Work Health and Safety (the **Minister**), would be required to review claims made by volunteer firefighters and assess whether a volunteer firefighter has met the relevant requirements, in accordance with the guidelines. The panel would include members who have expertise in firefighting, workers compensation, scientific research, and the legal and medical professions.
- 8.5 In his second reading speech, the Hon. John Graham MLC stated that the proposed amendments:
- ...will give New South Wales paid firefighters and volunteer firefighters who regularly engage in frontline hazardous firefighting the reassurance that they will be supported for a broader range of cancers. By expanding

coverage of female reproductive cancers, this bill affirms the Government's commitment to supporting female firefighters by ensuring they have faster access to workers compensation for cancers connected to their work.

Issues considered by the Committee

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

Significant matters deferred to the regulations

8.6 Under proposed section 10B of the Bush Fire, Emergency and Rescue Services Act, an eligible volunteer firefighter must be assessed by the advisory panel as:

- meeting the 'frontline hazardous firefighting activity test'
- having the qualifications in bush firefighting prescribed by the regulations.

The Bill would require an advisory panel to assess a volunteer firefighter's workers compensation claim under section 10B of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*. This must include an assessment of whether they have met the 'frontline hazardous firefighting activity test', and whether they have the qualifications in bush firefighting prescribed by the regulations.

By allowing the regulations to prescribe the relevant qualifications that an eligible volunteer firefighter must have, the Bill would defer significant matters to the regulations. The Committee generally prefers substantive matters to be set out in primary legislation, rather than regulations, to ensure an appropriate level of parliamentary oversight. This is particularly important where those matters may impact on individual rights and liberties. In this case, Committee notes that the regulations may significantly impact on the determination of a volunteer firefighter's workers compensation claim.

However, the Committee acknowledges that regulations are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For this reason, the Committee makes no further comment.

Commencement by proclamation

8.7 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, including to establish administrative

procedures necessary to implement the amended and additional provisions. For this reason, the Committee makes no further comment.

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

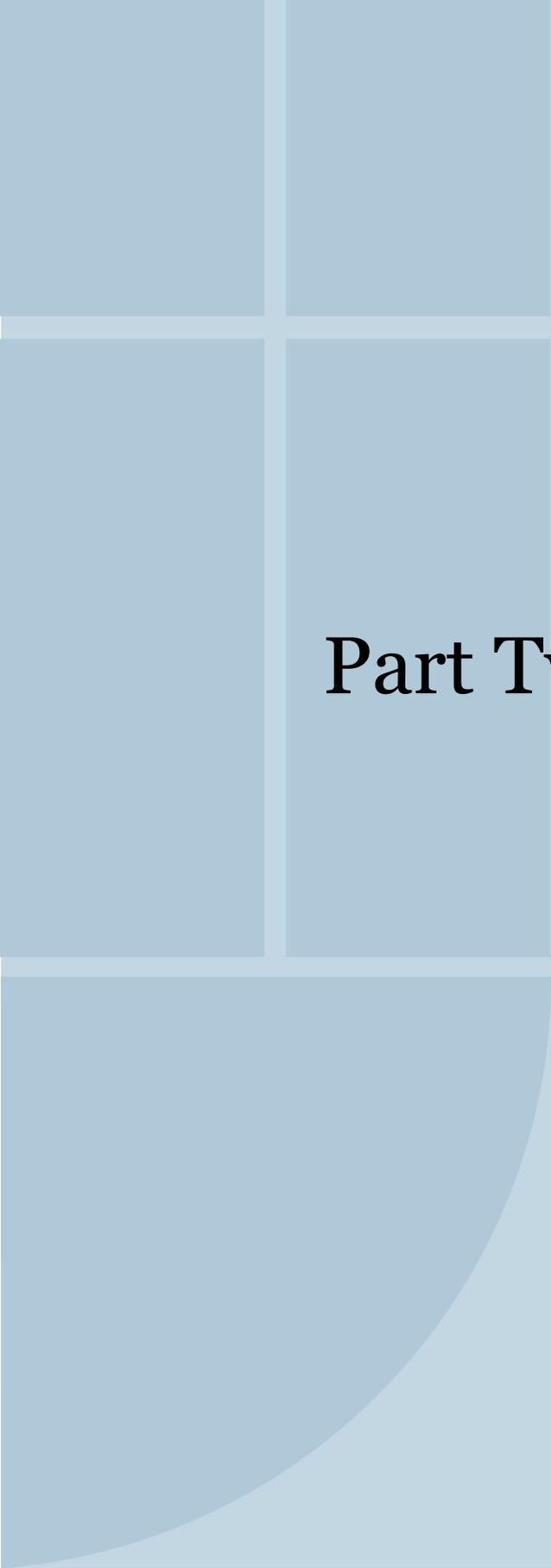
Incorporating significant matters in external documents not subject to disallowance

- 8.8 The Bill proposes to insert section 32B into the Bush Fire, Emergency and Rescue Services Act, which would require the Minister to make guidelines to be applied by the advisory panel when determining a volunteer firefighter's workers compensation claim in accordance with section 10B.
- 8.9 Specifically, the advisory panel would be required to apply the guidelines when assessing whether a person:
- meets the 'frontline hazardous firefighting activity test'
 - has the qualifications in bush firefighting prescribed by the regulations.
- 8.10 The 'frontline hazardous firefighting activity test' is defined under section 3 as the 'test specified in the guidelines'.
- 8.11 Proposed subsection 32B(2) stipulates that the guidelines must specify the operation of the frontline hazardous firefighting activity test, including:
- what the panel must consider in determining whether a person has engaged in frontline hazardous firefighting activity on a regular basis
 - the procedures and timeframes for the panel to conduct reviews and make its report.
- 8.12 The guidelines would also be required to include the matters that the advisory panel must consider when assessing whether a person has the required qualifications in bush firefighting, as prescribed by the regulations.

Proposed section 32B of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987* requires the Minister for Work Health and Safety to make guidelines that are to be applied by the advisory panel when determining a volunteer firefighter's workers compensation claim. Specifically, the guidelines must be applied when assessing whether a volunteer firefighter meets the 'frontline hazardous firefighting activity test'. The guidelines would be required to specify the operation of the test, including what the panel must consider, and the procedures and timeframes for the panel to conduct reviews and make its report. This means that significant matters would be set out in the guidelines, rather than in the legislation.

The Committee understands that the incorporation of matters into the guidelines may provide greater flexibility and allow updates to reflect changing regulatory advice and practices. However, there does not appear to be any requirement for the guidelines to be tabled in Parliament. As such, they are not subject to parliamentary scrutiny.

The Committee generally prefers that substantive matters are set out in legislation, where they can be subjected to a greater level of parliamentary scrutiny, particularly where they affect individual rights and liberties. In this case, the Committee notes that the matters required to be set out in the guidelines may significantly impact on the determination of a volunteer firefighter's workers compensation claim. For this reason, the Committee refers the matter to Parliament for consideration.



Part Two – Regulations without comment

Regulations without comment

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

1. Electricity Supply (General) Amendment (Scheduled Bidirectional Units Exclusion) Regulation 2025

The object of the Regulation is to amend the Electricity Supply (General) Regulation 2014 to exclude the purchase of electricity by a scheme participant for use by a scheduled bidirectional unit from being a liable acquisition under the energy savings scheme and the peak demand reduction scheme.

The Regulation is made under the *Electricity Supply Act 1995* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

2. Environmental Planning Assessment Amendment (Snowy Mountains) Regulation 2025

The object of the Regulation is to provide that:

- (a) development applications for development on certain land must not be determined by the consent authority unless a contributions plan has been approved for the land
- (b) an application for a complying development certificate for development on land in the Snowy Mountains Activation Precinct under State Environmental Planning Policy (Precincts—Regional) 2021 must be accompanied by an Activation Precinct certificate issued under the policy.

The Regulation is made under sections 4.27(5)(a) and 4.64(1) of the *Environmental Planning and Assessment Act 1979*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

3. Forestry Amendment (Energy Transmission Projects) Regulation 2025

The object of the Regulation is to amend the Forestry Regulation 2022 to permit the Forestry Corporation to issue a licence authorising the taking of timber or forest products from land identified as an environmentally significant area in relation to approved State significant infrastructure under the *Environmental Planning and Assessment Act 1979* for certain energy transmission projects.

The Regulation is made under the *Forestry Act 2012* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

4. Government Sector Legislation Amendment (Reporting Requirements) Regulation 2025

The object of the Regulation is to amend the Government Sector Finance Regulation 2024 to provide for the following:

- (a) prescribing the Voluntary Assisted Dying Board as a NSW Health entity
- (b) requirements that exclude certain entities from being GSF reporting agencies

- (c) other formal matters.

The Regulation is made under the *Government Sector Finance Act 2018* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

5. [Natural Resources Access Regulator Amendment \(Relevant Agencies\) Regulation 2025](#)

The object of the Regulation is to amend the Natural Resources Access Regulator Regulation 2023 to prescribe additional relevant agencies for the exchange of information and records under the *Natural Resources Access Regulator Act 2017*, section 16(1).

The Regulation is made under the *Natural Resources Access Regulator Act 2017* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

6. [Strata Schemes Legislation Amendment Regulation 2025](#)

The objects of the Regulation are as follows:

- (a) to prescribe persons who carry out limited repair or maintenance services for owners corporations or associations as classes of persons who are not building managers or facilities managers
- (b) to prescribe additional duties of building managers and facilities managers
- (c) to prescribe the form for a 10-year capital works fund plan prepared by an owners corporation for a strata scheme
- (d) to make further provision for requests by owners to owners corporations or associations for payment plans for the payment of overdue contributions, including:
 - (i) prescribing the form for a request
 - (ii) requiring a written response to a request, with reasons, to be given within 28 days
 - (iii) providing for the circumstances in which a refusal of a request is reasonable
- (e) to prescribe the form for an initial maintenance schedule prepared by the original owner under a strata scheme or under a community, precinct or neighbourhood scheme
- (f) to prescribe contraventions of the following as penalty notice offences:
 - (i) the *Strata Schemes Management Act 2015*, section 70A(1)
 - (ii) the *Community Land Management Act 2021*, section 74A(1).

The Regulation is made under the *Strata Schemes Management Act 2015* and the *Community Land Management Act 2021*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

7. [Rail Safety National Law National Regulations \(Safety Management System\) Amendment Regulations 2025](#)

The object of the Regulation is to amend the Rail Safety National Law National Regulations 2012 to prescribe that a rail safety management system for a rail transport operator is not required to provide for specified matters in certain circumstances and the content of safety management systems regarding the interoperability of railway operations.

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

8. [Industrial Relations \(General\) Amendment \(Stop Bullying Order\) Regulation 2025](#)

The object of the Regulation is to amend the Industrial Relations (General) Regulation 2020 to provide for the fee to apply for a stop bullying order.

The Regulation is made under the *Industrial Relations Act 1996*, section 183, and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

9. [Child Protection \(Working with Children\) and Other Legislation Amendment \(Children's Guardian Review Functions\) Regulation 2025](#)

The object of the Regulation is to support changes made to the review mechanisms in the *Child Protection (Working with Children) Act 2012* and the *National Disability Insurance Scheme (Worker Checks) Act 2018* under the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025* by making amendments to the following regulations:

- (a) the Child Protection (Working with Children) Regulation 2013
- (b) the National Disability Insurance Scheme (Worker Checks) Regulation 2020.

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

10. [Centennial Park and Moore Park Trust Amendment \(Events\) Regulation 2025](#)

The object of the Regulation is to increase the limit on the number of events attracting large crowds for which Trust lands, other than Callan Park, may be used annually.

The Regulation amends the Centennial Park and Moore Park Trust Regulation 2024 and is made under the *Centennial Park and Moore Park Trust Act 1983*. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

11. [Work Health and Safety Amendment Regulation 2025](#)

The object of the Regulation is to amend the Work Health and Safety Regulation 2025 to:

- (a) provide for the duty of a person conducting a business or undertaking who commissions licensed demolition work to be carried out at a workplace to ensure

the licensed demolition work is carried out by, or for, a person who has a demolition licence

- (b) make it an offence for a food delivery booking provider to direct or allow a food delivery rider to carry out food delivery work for the provider without completing food delivery induction training
- (c) update references to AS 2700S-2011, *Colour Standards for general purposes*
- (d) correct minor errors.

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

12. [Notice of Reservation of a National Park - Morton National Park](#)

The Notice reserves land for the Morton National Park under section 30A(1)(a) of the *National Parks and Wildlife Act 1974*.

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

13. [Supreme Court Practice Note SC EQ 15 - Equity Division Applications List](#)

The Practice Note applies to the Applications List in the Equity Division of the Supreme Court of New South Wales. The purpose of the Practice Note is to facilitate the prompt and efficient resolution of motions assigned by a Judge or the Registrar in Equity to the Applications List.

The Practice Note was issued on, and commenced on, 25 September 2025 and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

14. [Supreme Court Practice Note SC EQ 10 - Equity Division Revenue List](#)

The Practice Note applies to the Revenue List in the Equity Division of the Supreme Court of NSW. The purpose of the Practice Note is to facilitate the prompt and efficient resolution of proceedings in the Revenue List.

It substantially remakes the previous Practice Note, but makes changes to provide information regarding the operation of the list and requires parties to participate in, or consider, mediation.

This Practice Note was issued on, and commenced on, 25 September 2025 and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

15. [Notice of Reservation of a National Park - Barrington Tops National Park](#)

The Notice reserves an area of land as part of Barrington Tops National Park.

The Notice is made under section 30A(1)(a) of the *National Parks and Wildlife Act 1974* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

16. [Notice of Reservation of a National Park - Blue Mountains National Park](#)

The Notice reserves an area of land as part of Blue Mountains National Park.

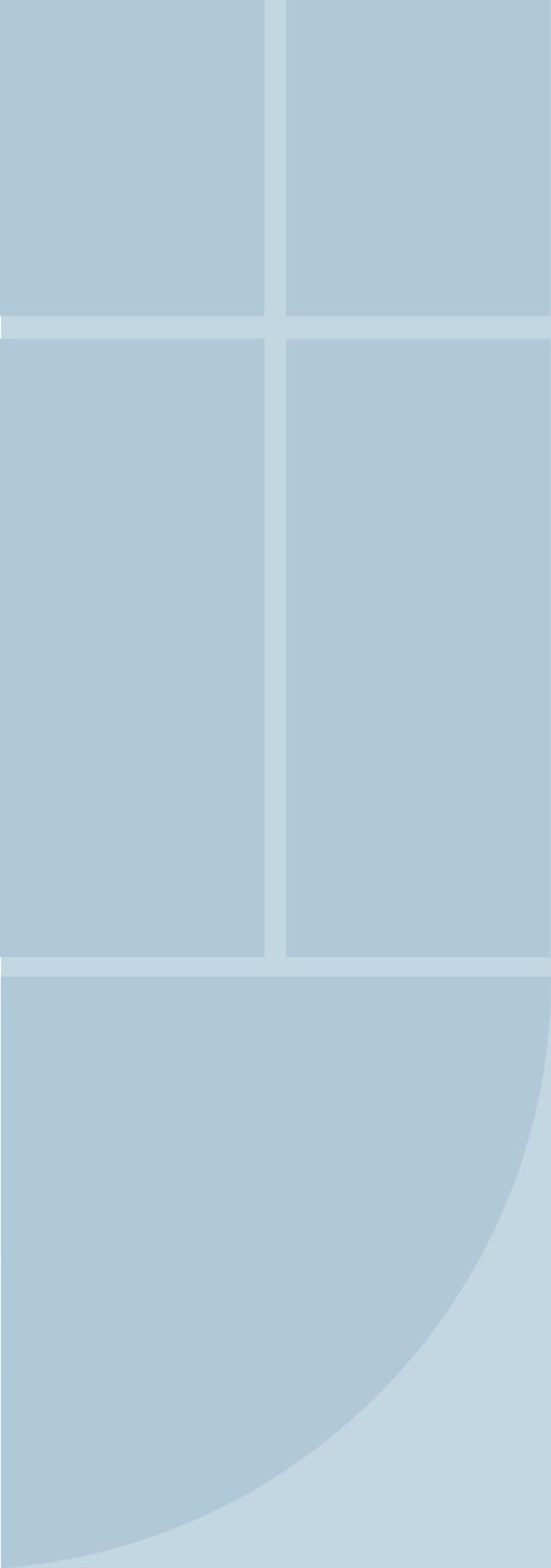
The Notice is made under section 30A(1)(a) of the *National Parks and Wildlife Act 1974* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

17. [District Court Civil Practice Note 17 - Defamation List](#)

This Practice Note applies to proceedings in the Defamation List in the District Court of New South Wales. The purpose of the Practice Note is to explain the operation of the Defamation List.

The Practice Note replicates, with minor changes, the previous Practice Note 6, which commenced on 9 February 2015.

The Practice Note was issued on 3 October 2025 and commenced on 7 October 2025. The Practice Note is made under the *Civil Procedure Act 2005* 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. 40

TIME & DATE: 3.00PM, 17 NOVEMBER 2025

LOCATION: ROOM 1136 AND VIA
VIDEOCONFERENCE

MEMBERS PRESENT

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

APOLOGIES

Mr Layzell.

OFFICERS PRESENT

Rohan Tyler, Carly McKenna, Alex Read, Charlie King, Joan Douce, Nicolle Gill and Art Bae.

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mr Murphy: That the minutes of the meeting of 10 November 2025 be confirmed.

2. ***

3. Consideration of bills with comment for Legislation Review Digest 39/58

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

- a) Crimes Amendment (Defence of Dwellings and Other Premises) Bill 2025
- b) Evidence Based AVO Amendment Bill 2025
- c) Public Health (Tobacco) Amendment (Landlord Offences) Bill 2025
- d) Summary Offences and Other Legislation Amendment (Public Assemblies) Bill 2025
- e) Workers Compensation Legislation Amendment (Firefighters) Bill 2025

4. Consideration of bills without comment for Legislation Review Digest 39/58

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

- a) Environment and Water Legislation Amendment Bill 2025
- b) Road Legislation Amendment (Speed Limits) Bill 2025
- c) Sporting Venues Authorities Amendment Bill 2025

5. Regulations without comment for Legislation Review Digest 39/58

Resolved, on the motion of Ms Davis: That the Committee adopts the regulations without comment as Part Two to Digest No. 39/58.

6. Legislation Review Digest 39/58

Resolved, on the motion of Ms Higginson:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts Legislation Review Digest No. 39/58 and that it be signed by the Chair and presented to the House.

7. Regulations to be reviewed

Resolved, on the motion of Mr Hagarty:

- That the Committee considers all regulations and statutory instruments that are currently subject to disallowance (tabled 21 October and 11 November 2025), even if the relevant regulations have been disallowed by the time the next Digest is adopted.

8. Next meeting

The Committee adjourned at 3.02 pm until Monday 24 November 2025.