

Legislation Review Committee



PARLIAMENT OF  
NEW SOUTH WALES

## Legislation Review Digest



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

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# Membership

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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. Children \(Criminal Proceedings\) and Young Offenders Legislation Amendment Bill 2025](#)

Issue identified	Conclusion of Committee
Potential weakening of doli incapax impacting the rights of children	Referred
Commencement by proclamation	Referred

### [2. Crimes and Summary Offences Amendment Bill 2025](#)

Issue identified	Conclusion of Committee
Implied freedom of political communication and freedom of expression	Referred
Freedom of assembly	No further comment
Procedural fairness (right to a fair hearing)	Referred
Broad or insufficiently defined offences	Referred
Wide and insufficiently defined powers – new police powers	Referred

### [3. Environmental Planning and Assessment Amendment \(Bushfire Protection\) Bill 2025\\*](#)

No issues identified

### [4. Forestry Amendment \(Bungabbee State Forest Revocation\) Bill 2025](#)

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment

### [5. Future Jobs and Investment Bill 2025](#)

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

### [6. Law Enforcement \(Powers and Responsibilities\) Amendment \(Places of Worship\) Bill 2025](#)

Issue identified	Conclusion of Committee
Implied freedom of political communication - power to issue 'move on' directions	No further comment

### [7. Motor Accident Injuries Amendment \(Claim Farming Practices Prohibition\) Bill 2025](#)

Issue identified	Conclusion of Committee
Extraterritorial application of laws	Referred
Right to the presumption of innocence – reversal of onus of proof	Referred

**8. Road Transport Amendment (Medicinal Cannabis) Bill 2025\***

No issues identified

**9. Strata Schemes Legislation Amendment (Miscellaneous) Bill 2025**

No issues identified

**10. Summary Offences Amendment (Police Memorial Offences) Bill 2025\***

No issues identified

**11. Terrorism and Other Legislation Amendment Bill 2025**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
Implied freedom of political communication – restriction of authorised public assemblies	Referred
Freedom of assembly – restriction of authorised public assemblies	Referred
Freedom of expression – display of terrorist symbols	No further comment
Broad powers to make public assembly restriction declarations	Referred
Special powers of Police Commissioner to make and extend public assembly restriction declarations	Referred

**12. Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2025\***

No issues identified

**13. Water Management Amendment (Easements for Inundation) Bill 2025**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
Commencement by proclamation	Referred

**14. Work Health and Safety (Digital Work Systems) Bill 2025**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
Commencement by proclamation	No further comment
Lack of clarity – meaning of 'excessive or unreasonable'	Referred
Incorporating significant matters into external guidelines not subject to disallowance	Referred

# Summary of Conclusions

## PART ONE – BILLS

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### 1. Children (Criminal Proceedings) and Young Offenders Legislation Amendment Bill 2025

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

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##### *Potential weakening of *doli incapax* impacting the rights of children*

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The Bill amends the *Children (Criminal Proceedings) Act 1987* (the Act) to codify the common law presumption of *doli incapax*, which presumes that a child aged between 10 and 13 cannot be guilty of an offence. This presumption is an important safeguard that protects children from criminal responsibility, as it recognises that children may lack the capacity to understand that their actions are 'seriously wrong' in a moral sense. Subsection 5(3), as inserted by the Bill, provides that the presumption can only be rebutted if the prosecution proves beyond reasonable doubt that a child knows that their conduct was seriously wrong.

Subsection 5(5) sets out mandatory considerations that a court must have regard to when determining whether the presumption has been rebutted, including evidence of a child's intellectual and moral development and education, and the environment in which the child was raised. However, subsection 5(7) clarifies that this determination may be made 'without or despite evidence of the child's intellectual and moral development' if the court is satisfied that evidence of the conduct and circumstances are sufficient to prove beyond reasonable doubt that the child knew their conduct was seriously wrong.

By explicitly allowing a court to determine that the presumption of *doli incapax* has been rebutted, without or despite evidence of the child's education and environment, the Bill may weaken the common law presumption. It may also conflict with the reasoning in *RP v The Queen*, where the High Court held that it was 'not open to conclude' that the presumption had been rebutted, in the absence of such evidence.

The Committee acknowledges the benefits of codifying the common law presumption in legislation and providing additional clarity and guidance as to its operation. However, by potentially reducing the evidentiary threshold for rebutting the presumption, the Bill may undermine an important and longstanding criminal law safeguard that is designed to shield children from criminal responsibility.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

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

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##### *Commencement by proclamation*

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The Bill commences 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 notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

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## 2. Crimes and Summary Offences Amendment Bill 2025

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

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#### *Implied freedom of political communication and freedom of expression*

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The Bill amends the *Crimes Act 1900* by inserting a new section 93ZA to consolidate and expand existing offences relating to the public display of Nazi symbols and to introduce new offences capturing a broader range of public conduct indicating support for Nazi ideology.

Proposed subsections 93ZA(3) and (4) extend criminal liability beyond the display of Nazi symbols to include public conduct that invokes imagery or characteristics associated with Nazi ideology where that conduct would cause a reasonable person to fear harassment, intimidation or violence, or fear for their safety. Where such conduct occurs on or near a Jewish place, an offence under subsection 93ZA(3) carries a maximum penalty of a \$22,000 fine (200 penalty units) or two years imprisonment, or both, for an individual, and an \$110,000 fine (1,000 penalty units) for a corporation. Where the conduct occurs 'other than on or near a Jewish place', the offence carries a maximum penalty of an \$11,000 fine (100 penalty units) and/or 12 months imprisonment for an individual and a \$55,000 fine (500 penalty units) for a corporation.

The proposed provisions also confer additional enforcement powers on police officers to direct the removal of suspected Nazi symbols from public display. A failure to comply with such a direction without reasonable excuse would constitute a separate offence, punishable by a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both. These powers operate outside the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

By broadening the scope of prohibited conduct and empowering police to intervene directly in expressive activity, the Bill burdens freedom of expression and the implied freedom of political communication. The Committee notes that freedom of expression and freedom of association are core civil and political rights protected under Articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR).

The Committee acknowledges that the Bill seeks to address serious and recent antisemitic incidents and is intended to protect individuals and communities from conduct that may incite hatred, intimidation or violence. The Committee also notes that the Bill includes exemptions for religious, academic, artistic, educational and public interest purposes.

However, the Committee considers that the expansion of criminal liability to broadly framed categories of expressive conduct, together with significant criminal penalties and immediate enforcement powers, raises questions as to whether the resulting burden on the implied freedom of political communication is reasonably appropriate and adapted to achieving a legitimate purpose. The Committee further notes that the Bill has been referred by the Legislative Assembly to the Legislative Assembly Committee on Law and Safety for inquiry and report, including consideration of its constitutional validity. For these reasons, the Committee refers the issue to Parliament for further consideration.

### *Freedom of assembly*

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The Bill inserts a new subsection 24(2) into the *Summary Offences Act 1988* to clarify that participation in an authorised public assembly does not provide immunity from liability for other criminal offences committed during the assembly, including offences relating to the purpose of the assembly.

The proposed amendment affects the circumstances in which the right to freedom of assembly and freedom of movement may be exercised, which are protected under Articles 12, 21 and 22 of the International Covenant on Civil and Political Rights (the ICCPR). These rights are not absolute and may be subject to lawful restrictions that are necessary in the interests of public safety, public order, or the protection of the rights and freedoms of others.

The Committee notes that the amendment does not create new offences or confer new enforcement powers. Rather it clarifies the existing legal position that authorisation to assemble does not displace the operation of other criminal laws. The Committee further notes that the amendment is directed at addressing misconceptions regarding the scope of protection afforded by authorised assemblies, particularly in circumstances involving conduct that may incite hatred or intimidation. In the circumstances, the Committee considers that the amendment represents a permissible and proportionate clarification of the law and makes no further comment.

### *Procedural fairness (right to a fair hearing)*

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The Bill proposes to require that offences under proposed subsections 93ZA(1) – (4) of the *Crimes Act 1900* are to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment. The Bill also amends the *Criminal Procedure Act 1986* to classify the offences as indictable offences that are triable summarily.

The Committee notes that the amendments remove any capacity for an accused person to elect for a trial on indictment. As a result, individuals charged with offences carrying maximum penalties of up to two years imprisonment may be denied procedural protections associated with indictable proceedings, including the possibility of trial by jury.

The Committee notes that offences under section 93ZA apply to conduct that may be expressive in nature and that the summary classification of these offences has consequential effects beyond the mode of trial. In particular, it enables police officers to exercise additional investigative powers under section 11 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to require the disclosure of a person's identity.

The Committee acknowledges that the amendment may be intended to promote the efficient and expeditious determination of criminal matters and to facilitate timely police investigation. However, the Committee considers that the combination of significant penalties, exclusive prosecutorial election, and investigative consequences gives rise to concerns regarding procedural fairness. For these reasons, the Committee refers the issue to Parliament for further consideration.

### *Broad or insufficiently defined offences*

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Proposed section 93ZA creates new offences that apply to conduct carried out by a 'public act' and to conduct that 'indicates support for Nazi ideology' by invoking imagery or characteristics associated with that ideology.

While the Bill includes a number of limiting features, including fault elements, an objective fear test, and specified exemptions, it does not exhaustively define the scope of key concepts such as 'public act' or the types of conduct that may be regarded as indicating support for Nazi ideology.

As a result, the application of the offences will depend on evaluative judgments by police officers and courts as to the meaning and effect of expressive conduct in particular circumstances.

The Committee notes that these offences extend beyond the display of specific symbols to capture a broad range of expressive conduct and carry significant maximum penalties, including custodial sentences of up to two years imprisonment. The breadth of offences is also relevant given the conferral of immediate enforcement powers on police officers, including powers to direct the removal of suspected Nazi symbols from public display.

The Committee generally comments on offence provisions that may give rise to uncertainty, particularly where those provisions expose individuals to significant criminal penalties, and that rely on broadly framed concepts to determine criminal liability. The Committee considers that clarity is important where offences regulate expressive conduct and confer discretionary enforcement powers. For these reasons, the Committee refers the issue to Parliament for further consideration.

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

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*Wide and insufficiently defined powers – new police powers*

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The Bill confers new enforcement powers on police officers under proposed section 93ZA of the *Crimes Act 1900*, including a power to direct a person to remove a suspected Nazi symbol from public display where a police officer 'reasonably suspects' that an offence is being committed.

The exercise of this power is dependent on a police officer's reasonable suspicion and may be exercised immediately, prior to any determination of criminal liability. A failure to comply with a removal direction without reasonable excuse constitutes a separate criminal offence, punishable by a maximum penalty of a \$2,200 fine (20 penalty units) or three months imprisonment, or both.

The Committee notes that the removal direction power is expressly excluded from the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*. As a result, the scope and operation of the power are not subject to the usual statutory constraints governing police directions in public places.

The Committee acknowledges that the power is intended to operate as a temporary de-escalation measure and to enable police to respond appropriately to conduct associated with antisemitic intimidation. However, the Committee considers that the breadth of the power, its reliance on evaluative judgment, and the criminal consequences of non-compliance mean that the exercise of the power may have immediate and significant effects on individual rights and liberties.

The Committee generally comments where legislation makes rights and liberties dependent upon broadly defined administrative powers, particularly where non-compliance attracts criminal penalties and the power operates outside existing statutory safeguards. For these reasons, the Committee refers the issue to Parliament for further consideration.

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**3. Environmental Planning and Assessment Amendment (Bushfire Protection) Bill 2025\***

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

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#### 4. Forestry Amendment (Bungabbee State Forest Revocation) Bill 2025

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

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###### *Commencement by proclamation*

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The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions. In this case, native title rights are contingent on the Bill's commencement. However, the Committee acknowledges that a flexible commencement date is required to enable the necessary administrative arrangements to be made for the transfer of land. The Government has also committed to completing the transfer by 30 June 2026, which provides some measure of certainty regarding timing. For these reasons the Committee makes no further comment.

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#### 5. Future Jobs and Investment Bill 2025

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

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###### *Commencement by proclamation*

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The proposed Act would commence on a day or days 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 the administrative and organisational arrangements necessary to establish the Future Jobs and Investment Authority and the Future Jobs and Investment Fund. For this reason, the Committee makes no further comment.

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

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###### *Wide delegation of powers*

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The Bill would create the Future Jobs and Investment Authority (the Authority) and establish the functions of the Minister and the Authority under proposed sections 6 and 12. Proposed sections 8 and 17 would permit the Minister and the Authority to delegate those functions to the Secretary, the chief executive officer or an 'authorised person'. Proposed subsections 25(1) and 78(1) would also permit the Secretary and the chief executive officer to sub-delegate their delegated functions to an 'authorised person' who may include persons 'prescribed by the regulations'.

The Committee notes that the Bill would therefore permit statutory functions to be delegated and sub-delegated to a class of persons that is not exhaustively defined in the primary legislation and that may be expanded by regulations. This may permit the exercise of public powers by private individuals who are not public officials or office holders.

The Committee acknowledges that allowing regulations to prescribe categories of authorised persons may provide flexibility, and that regulations are tabled in Parliament and are subject to disallowance under section 41 of the *Interpretation Act 1987*.

However, the Committee generally prefers that the classes of persons who may exercise statutory functions are set out in primary legislation to ensure clarity, certainty and transparency, and to facilitate appropriate parliamentary oversight. For this reason, the Committee refers the issue to Parliament for consideration.

#### *Incorporation of significant matters not subject to disallowance*

---

The Bill would permit the Minister to establish a governance framework for the administration of the Future Jobs and Investment Fund (the FJI Fund), under proposed section 7. The governance framework may also affect the exercise of the Minister's functions, including by expanding or modifying functions under proposed subsection 8(3)(a)(iv). The Minister may amend the governance framework at any time, and there is no requirement for it to be tabled in Parliament or otherwise subjected to parliamentary scrutiny.

The Committee generally comments on legislative provisions that permit substantive matters to be determined by external instruments that are not subject to parliamentary scrutiny. The Committee prefers that substantive elements of statutory schemes, particularly those involving the expenditure of public funds or the exercise of executive power, are set out in legislation or tabled in Parliament as regulations.

The Committee acknowledges that the governance framework may be intended to provide flexibility and ensure that the administration of the FJI Fund can respond to changing economic circumstances and industry needs. However, as the framework appears to play a significant role in determining how the FJI Fund operates and may affect the scope of ministerial functions, the Committee considers that it should be subject to an appropriate level of parliamentary scrutiny. For this reason, the Committee refers the issue to the Parliament for consideration.

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## **6. Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Bill 2025**

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

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

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The Bill amends the *Law Enforcement (Powers and Responsibilities) Act 2002* (the Act) to provide for the circumstances in which police may give a 'move on' direction to a person in relation to a protest in or near a place of worship. The amendments permit police to give a move on direction only 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 power is further limited in that it does not extend to authorised assemblies, assemblies with the consent of the place of worship, Parliament-related assemblies, or industrial action.

The Committee notes that the amendments respond directly to the recent decision of the Supreme Court in *Lees v State of New South Wales (Lees)*, in which subsection 200(5) of the Act was held to be invalid for impermissibly burdening 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 notes that while the amendments still allow police to give move on directions, they limit the circumstances in which such directions may be given, in line with the issues identified in *Lees*. On that basis, it is unlikely that the Bill would impermissibly burden the implied freedom of

political communication. Therefore, in the circumstances, the Committee makes no further comment.

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## **7. Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025**

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

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#### *Extraterritorial application of laws*

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The Bill proposes to extend the legislative jurisdiction of the Act beyond the State of NSW. The Committee generally comments on provisions that have extraterritorial effect as they impact on the rule of law principle that a person is entitled to know the law that applies to them at any given time.

Extraterritorial application of the Act could create conflicts between the Act and another jurisdiction's laws of a similar nature. In addition, the provision is broadly worded to apply the Act '... as far as the legislative powers of the State permit.' This may create uncertainty for individuals seeking to understand the extent of their legal obligations beyond NSW. For these reasons, the Committee refers the issue to Parliament for consideration.

#### *Right to the presumption of innocence – reversal of onus of proof*

---

The Bill seeks to create new offences to prohibit claim farming practices in relation to motor accident injury claims. Those offences include exemptions under proposed sections 6.46(4) and 6.47(4) for specified circumstances. Proposed subsections 6.46(5) and 6.47(5) place the evidential burden on the accused to establish that an exemption applies.

By requiring the accused to prove the existence of an exemption, the Bill may undermine the common law principle that a person charged with a criminal offence has a right to be presumed innocent until proven guilty.

The Committee recognises that the relevant offences do not attract a custodial penalty, and that the Bill is intended to protect vulnerable people and the legal system from fraudulent claims. However, unlike the *Claim Farming Practices Prohibition Act 2025*, the offences in this Bill apply to individuals and carry a significant maximum penalty of a \$55,000 fine (500 penalty units). For these reasons, the Committee refers the issue to Parliament for consideration.

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## **8. Road Transport Amendment (Medicinal Cannabis) Bill 2025\***

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

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## **9. Strata Schemes Legislation Amendment (Miscellaneous) Bill 2025**

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

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## **10. Summary Offences Amendment (Police Memorial Offences) Bill 2025\***

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

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## 11. Terrorism and Other Legislation Amendment Bill 2025

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

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#### *Implied freedom of political communication – restriction of authorised public assemblies*

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The Bill amends multiple Acts to restrict the authorisation of public assemblies and expand police powers following acts of terrorism. It amends the *Terrorism (Police Powers) Act 2002* to grant special powers to the Commissioner or a Deputy Commissioner of Police to declare an area as one where the authorisation of public assemblies is restricted. The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to clarify that a police officer is not precluded from giving 'move on' directions to persons participating in a public assembly if the area is subject to a public assembly restriction declaration. Additionally, the Bill amends the *Summary Offences Act 1988* to prohibit a public assembly from being authorised. The authorisation of a public assembly would normally grant a person immunity from prosecution in relation to that assembly. Therefore, prohibiting authorisation means that those participating would not be protected from prosecution for certain offences under the *Summary Offences Act 1988*.

The combined effect of the amendments is to limit legal protections for those participating in a public assembly and, therefore, to deter participation in such assemblies. In doing so, the Bill may infringe on the implied freedom of political communication under the Australian Constitution. The Committee generally comments on laws which could have the effect of burdening the implied freedom of political communication. The Committee notes that the implied freedom of political communication can only be validly restricted where there is a legitimate purpose, and where the restriction is reasonably appropriate and adapted to achieving that purpose.

The Committee recognises that the laws are intended to address concerns about community safety and minimise risks to social cohesion following terror attacks. It also acknowledges that the amendments do not explicitly prohibit public assemblies. However, by preventing the authorisation of public assemblies, the Bill may effectively inhibit protest activity and deter persons from engaging in legitimate political expression by making them vulnerable to prosecution.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration of whether the provisions impermissibly burden the implied freedom of political communication.

#### *Freedom of assembly – restriction of authorised public assemblies*

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The Bill amends multiple Acts to restrict the authorisation of public assemblies and expand police powers following acts of terrorism, as noted above. It amends the *Terrorism (Police Powers) Act 2002* to grant special powers to the Commissioner or Deputy Commissioner of Police to restrict the authorisation of public assemblies in specified areas. The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to clarify that a police officer is not precluded from giving move on directions to persons participating in a public assembly if the area is subject to a public assembly restriction declaration. Additionally, the Bill amends the *Summary Offences Act 1988* to prohibit a public assembly from being authorised. The authorisation of a public assembly would normally grant a person immunity from prosecution in relation to that assembly. Therefore, prohibiting authorisation means that those participating would not be protected from prosecution for certain offences under the *Summary Offences Act 1988*.

The combined effect of the amendments is the deterring or inhibiting of participation in public assemblies. The Bill may therefore infringe on the right to freedom of assembly, as contained in Article 21 of the International Covenant on Civil and Political Rights (ICCPR). While the right to

freedom of assembly protects the freedom of individuals and groups to meet and engage in peaceful protest, the ICCPR recognises that derogation from these rights may be warranted in certain circumstances, including measures to protect public health and safety.

The Committee recognises that the laws are intended to address concerns about community safety and minimise risks to social cohesion following terror attacks. It also acknowledges that the amendments do not explicitly prohibit public assemblies. However, by preventing their authorisation, the Bill would unduly impact the right to freedom of assembly by exposing individuals to prosecution in association with those assemblies.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

#### *Freedom of expression – display of terrorist symbols*

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The Bill proposes to amend the *Crimes Act 1900* (the Crimes Act) to make it an offence for a person to knowingly display, by public act and without reasonable excuse, a prohibited terrorist symbol. The offence is subject to a maximum penalty of \$22,000 (200 penalty units) or two years' imprisonment for an individual, or \$110,000 (1,000 penalty units) for a corporation.

A 'public act', as defined in section 93Z of the Crimes Act, includes any written or visual communication to the public, such as writing, displaying notices, playing recorded material, broadcasting or communicating via social media and other electronic methods. It also includes wearing certain clothing or distributing materials to the public. Section 93ZB adopts the definition of 'terrorist organisation' from section 102.1 of the *Criminal Code Act 1995* (Cth), which includes organisations directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act, or those specified by regulations for this purpose.

The Committee previously reported in Digest No. 25/58 on the Crimes Amendment (Display of Nazi and Terrorist Symbols) Bill 2025, which prohibited the public display of a Nazi or terrorist organisation symbol by making it an offence to knowingly display, by public act and without reasonable excuse, a Nazi symbol or terrorist organisation symbol without reasonable excuse. Consistent with those comments, the Committee notes that the Bill places restrictions on freedom of expression, specifically regarding the display of symbols. The Committee generally comments where legislation limits a person's right to expression, as it is a core right contained in Article 19 of the International Covenant on Civil and Political Rights (the ICCPR). However, it recognises that lawful restrictions on freedom of expression may be permitted in the interests of national security or public safety, public order, the protection of public health, morals, or the rights and freedoms of others.

In this case, the Committee recognises that the Bill is intended to prevent the promotion and incitement of hate crime through terrorist symbols, particularly in light of the terrorist attack at Bondi Beach. The Committee also acknowledges that the Bill includes exceptions, including where the terrorist symbol is used reasonably and in good faith for an academic, artistic or education purpose or for another purpose in the public interest. In the circumstances, the Committee makes no further comment.

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

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*Broad powers to make public assembly restriction declarations*

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The Bill proposes to amend the *Terrorism (Police Powers) Act 2002* by granting special powers to the Commissioner of Police or a Deputy Commissioner of Police to declare that the authorisation of public assemblies, within an area described in the declaration, is restricted. A declaration can be made within 14 days of the authorisation or declaration of a terrorism incident, if the Commissioner or Deputy Commissioner is satisfied that public assemblies in the area are likely to cause a reasonable person to fear harassment, intimidation or violence, fear for their safety, or create a risk to community safety.

The Bill does not define or limit the extent of the area to which the declaration can apply. It does not include any detail on how the area is to be determined, or any requirement for it to be restricted to the area where the terrorism incident occurred. This means that the Bill grants broad powers to the Commissioner or Deputy Commissioner without being sufficiently limited or restricted. The Committee generally comments on laws that grant broad powers without being sufficiently defined, particularly where those powers can impact personal rights and liberties, such as the right to freedom of assembly.

The Committee acknowledges that the powers to restrict the authorisation of public assemblies may be intended to prevent risks to public safety and the inflammation of community tensions, following a terrorist attack. However, the Committee remains concerned that the powers are insufficiently defined, and that there are no provisions that appear to limit the application of those powers or the size of the area specified in the declaration.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

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

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*Special powers of Police Commissioner to make and extend public assembly restriction declarations*

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The Bill amends the *Terrorism (Police Powers) Act 2002* by inserting section 23B, which grants special powers to the Commissioner of Police or a Deputy Commissioner to make a public assembly restriction declaration. The Commissioner or Deputy Commissioner also has the power to vary or change the area to which the declaration applies, or extend the time period of the declaration. Although a declaration cannot be extended for more than 14 days, a declaration can be extended more than once, and up to 90 days in total.

The Committee generally comments on provisions that provide for the making of Executive or Ministerial declarations, particularly where those declarations may impact upon the rights, liberties or obligations of individuals. The Committee generally prefers that such matters are included in regulations to ensure an appropriate level of parliamentary oversight. This is because unlike declarations, regulations must be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.

The Committee acknowledges that the powers to restrict the authorisation of public assemblies may be intended to prevent risks to public safety and social cohesion, following a terrorist attack. However, it also notes that these powers would impact on the implied freedom of political communication, and the right to freedom of assembly and expression, as explained above. The

Committee is also concerned that, despite the requirements for Ministerial concurrence and the publishing of any declarations, a failure to comply with these requirements would not affect the validity of a declaration.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

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## 12. Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2025\*

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

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## 13. Water Management Amendment (Easements for Inundation) Bill 2025

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

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#### *Commencement by proclamation*

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The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions, particularly where the provisions would affect individual rights or obligations. As the Bill may impact the property rights of individual landholders, the Committee refers this to issue to Parliament for further consideration.

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## 14. Work Health and Safety (Digital Work Systems) Bill 2025

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

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#### *Commencement by proclamation*

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The Bill commences 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 a flexible starting date could allow time for the rollout of stakeholder education and awareness campaigns, which may ultimately facilitate the smooth implementation of the Bill's provisions. In the circumstances, the Committee makes no further comment.

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

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#### *Lack of clarity – meaning of 'excessive or unreasonable'*

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Proposed section 21A(1) imposes a duty on employers to ensure that their digital work systems do not result in 'excessive or unreasonable' workloads, performance metrics or surveillance of workers. While the Bill does not introduce new offences, breaches of a primary duty under the *Work Health and Safety Act 2011* engage the existing offence framework, under which significant penalties apply.

The Committee notes that penalties under the Act range from a \$149,698.34 fine (1,214 penalty units) to a \$2,318,844.55 fine (18,805 penalty units), or 10 years imprisonment. However, the

terms 'excessive' and 'unreasonable' are not defined in the Bill or the Act, and there is no further statutory guidance clarifying how those concepts are to be applied in practice.

In the absence of such guidance, employers and workers may face uncertainty in understanding the scope of the duty and the conduct required to comply with it, particularly given the seriousness of the potential penalties. While the Committee acknowledges that the Bill is intended to commence by proclamation to allow time for the Government to educate and engage with key stakeholders, it considers that greater legislative clarity may still be warranted. For this reason, the Committee refers the issue to Parliament for consideration.

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

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*Incorporating significant matters into external guidelines not subject to disallowance*

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The Bill would allow WHS entry permit holders to access and inspect an employer's digital work systems when investigating a suspected contravention of the Act (section 118(1)(a)). The exercise of this power would be subject to guidelines that the regulator, SafeWork NSW, is required to publish under proposed section 118A. The Bill does not specify when or how often the regulator must publish the guidelines.

The Committee notes that the Act imposes significant penalties for breaching access and inspection obligations, with maximum penalties ranging from a \$14,920.51 fine (121 penalty units) for individual employers, to a \$29,964.33 fine (243 penalty units) for WHS entry permit holders. The content of the guidelines would therefore play a significant role in shaping how statutory powers are exercised and how obligations are understood.

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 is no requirement for the guidelines to be tabled in Parliament. As such, significant matters affecting the exercise of statutory powers and the imposition of penalties would be determined by external material that is not subject to parliamentary scrutiny.

The Committee generally prefers that substantive matters are set out in legislation where they can be subjected to appropriate parliamentary scrutiny, particularly where these matters affect individual rights and liberties. For this reason, the Committee refers the issue to Parliament for consideration.

# Part One – Bills

# 1. Children (Criminal Proceedings) and Young Offenders Legislation Amendment Bill 2025

Date introduced	18 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

## Purpose and description

- 1.1 The objects of the Bill are as follows:
- (a) to amend the *Children (Criminal Proceedings) Act 1987* (the **Criminal Proceedings Act**) in relation to the age of criminal responsibility of children between 10 years of age and 14 years of age
  - (b) to make miscellaneous amendments to the *Young Offenders Act 1997* (the **Young Offenders Act**) and the Young Offenders Regulation 2016.

## Background

- 1.2 During his second reading speech, the Hon Michael Daley MP, Attorney General, stated that the Bill '... implements the legislative recommendations of the recent independent review of the operation of *doli incapax* in New South Wales ...' (the **Doli Incapax Review**).

- 1.3 The Attorney General explained:

The term *doli incapax* means "incapable of deceit or incapable of crime or incapable of evil" and is the name given to the presumption at common law that children aged 10 to 13 lack capacity to be criminally responsible for their acts, unless proven otherwise. It is a longstanding and important common law presumption.

The presumption is a rebuttable one if the prosecution proves beyond reasonable doubt that the child understood that their actions were seriously and morally wrong.

- 1.4 In considering how the Bill implements the recommendations of the Doli Incapax Review, the Attorney General stated:

A key recommendation to improve the current settings was to codify the presumption of *doli incapax* and provide statutory guidance about relevant factors in determining whether the presumption has been rebutted. Implementation of this recommendation will strengthen responses to youth offending and ensure that the application of the *doli incapax* presumption is clear and consistent across the State.

- 1.5 The Bill amends section 5 of the Criminal Proceedings Act to codify the presumption that a child between 10 and 13 years of age cannot be guilty of an offence. Amended section 5 provides guidance for courts in determining whether the presumption has been rebutted.
- 1.6 The Bill also implements recommended changes to the Young Offenders Act to expand access to diversionary options for 10 to 13-year-olds, including:
- providing for non-denial statements to be made, where a child does not agree to every aspect of the alleged conduct but does not admit guilt
  - lowering the threshold for diversionary options so that a child who makes a non-denial statement is eligible
  - expanding the offences for which warnings and cautions may be given
  - modifying provisions regarding the conduct and participation of persons in youth justice conferences.
- 1.7 As the Attorney General explained, these amendments will '... strengthen opportunities to safely and appropriately divert young people away from the criminal justice system.'
- 1.8 On 18 November 2025, the Bill was declared urgent by the Legislative Assembly and on 25 November 2025, the Bill was declared urgent by the Legislative Council. The Bill passed Parliament without amendment on 27 November 2025, prior to the tabling of this Digest and, therefore, before the Committee could report on it. Section 8A(2) of the *Legislation Review Act 1987* permits the Committee to report on a bill that has passed or become an Act. In accordance with its usual practice, the Committee has considered the Bill as it was introduced.
- 1.9 Under Legislative Assembly Standing Order 188(10) and Legislative Council Standing Order 142(2), debate on a bill is typically adjourned until at least five days after the second reading speech of the mover. However, Standing Order 189 of the Assembly and Standing Order 146 of the Council set out the procedures for declaring a bill to be an 'urgent bill'. These procedures allow the Houses to proceed with all remaining stages of a bill's consideration immediately after the second reading speech, or at any time during that or any future sitting of the House.

## Issues considered by the Committee

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

#### *Potential weakening of *doli incapax* impacting the rights of children*

- 1.10 Schedule 1 of the Bill amends section 5 of the Criminal Proceedings Act relating to the age of criminal responsibility.
- 1.11 Subsection 5(2) codifies the common law presumption of *doli incapax* by stating that it is presumed that a child aged 10, 11, 12, or 13 at the time of an alleged offence cannot be guilty of the offence. Under subsection 5(3), this presumption can only be rebutted if the prosecution proves beyond reasonable doubt that the child knew at the time of the alleged offence that their conduct was 'seriously wrong'.

- 1.12 As the Attorney General explained, the presumption ' ... acts as an important safeguard against inappropriate findings of criminal responsibility against children under 14 when those children are not mature enough to understand what they did was wrong.'
- 1.13 Subsection 5(5) provides that, in determining whether the presumption has been rebutted, a court must have regard to:
- the conduct that constitutes the alleged offence
  - the circumstances surrounding the commission of the alleged offence (for example, the child taking steps to plan the conduct)
  - the child's intellectual and moral development and education
  - the environment in which the child was raised.
- 1.14 However, subsection 5(7) provides that, 'to avoid doubt':
- the court may determine that the presumption has been rebutted based on the evidence of the conduct and the circumstances of the offence
  - the determination may be made 'without or despite evidence of the child's intellectual and moral development' if the court is satisfied that evidence of the conduct and circumstances are sufficient to prove beyond reasonable doubt that the child knew their conduct was seriously wrong.
- 1.15 In the case of *RP v The Queen*<sup>1</sup>, the common law authority for the presumption in NSW, the High Court stated that 'in the absence of evidence' regarding the environment in which the child was raised or their performance at school, 'it was not open to conclude' that the presumption of *doli incapax* had been rebutted.

**The Bill amends the *Children (Criminal Proceedings) Act 1987* (the Act) to codify the common law presumption of *doli incapax*, which presumes that a child aged between 10 and 13 cannot be guilty of an offence. This presumption is an important safeguard that protects children from criminal responsibility, as it recognises that children may lack the capacity to understand that their actions are 'seriously wrong' in a moral sense. Subsection 5(3), as inserted by the Bill, provides that the presumption can only be rebutted if the prosecution proves beyond reasonable doubt that a child knows that their conduct was seriously wrong.**

**Subsection 5(5) sets out mandatory considerations that a court must have regard to when determining whether the presumption has been rebutted, including evidence of a child's intellectual and moral development and education, and the environment in which the child was raised. However, subsection 5(7) clarifies that this determination may be made 'without or despite evidence of the child's intellectual and moral development' if the court is satisfied that evidence of the conduct and**

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<sup>1</sup> [RP v The Queen \[2016\] HCA 53](#).

**circumstances are sufficient to prove beyond reasonable doubt that the child knew their conduct was seriously wrong.**

**By explicitly allowing a court to determine that the presumption of *doli incapax* has been rebutted, without or despite evidence of the child's education and environment, the Bill may weaken the common law presumption. It may also conflict with the reasoning in *RP v The Queen*, where the High Court held that it was 'not open to conclude' that the presumption had been rebutted, in the absence of such evidence.**

**The Committee acknowledges the benefits of codifying the common law presumption in legislation and providing additional clarity and guidance as to its operation. However, by potentially reducing the evidentiary threshold for rebutting the presumption, the Bill may undermine an important and longstanding criminal law safeguard that is designed to shield children from criminal responsibility.**

**The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.**

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

##### *Commencement by proclamation*

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

**The Bill commences 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 notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.**

## 2. Crimes and Summary Offences Amendment Bill 2025

Date introduced	19 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

### Purpose and description

- 2.1 The object of the Bill is to amend:
- (a) the *Crimes Act 1900* (the **Crimes Act**) to make it an offence to publicly engage in conduct that indicates support for Nazi ideology
  - (b) the *Criminal Procedure Act 1986* (the **Criminal Procedure Act**) to require certain offences for conduct that indicates support for Nazi ideology to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment
  - (c) the *Summary Offences Act 1988* (the **Summary Offences Act**) to clarify that a person participating in an authorised public assembly may still be guilty of another offence while participating in the assembly, including in relation to the purpose of the assembly.

### Background

- 2.2 The Bill proposes amendments to three principal pieces of legislation governing criminal offences, criminal procedure and public assemblies in NSW. The amendments are intended to strengthen the regulation of public conduct associated with antisemitic expression, the promotion of Nazi ideology, and protest activity that may cause intimidation or disruption.
- 2.3 The Bill introduces new offences and expands existing offence provisions relating to the public display of Nazi symbols and other conduct indicating support for Nazi ideology. It also makes consequential changes affecting enforcement powers, including powers that operate alongside the framework established under the *Law Enforcement (Powers and Responsibilities) Act 2002* (the **LEPRA**).
- 2.4 In his second reading speech, the Hon Michael Daley MP, Attorney General, explained that the Bill responds to recent antisemitic incidents in NSW, with particular reference to protest activity outside the Parliament of NSW on 8 November 2025. The Attorney General stated that the Bill builds on earlier reforms and seeks to dispel '... any public misconception that authorised assemblies provide immunity from hate speech laws.'
- 2.5 The Attorney-General further stated that:
- These reforms are necessary to close legislative gaps and provide police and the courts with the tools to respond swiftly and effectively to such conduct. The amendments introduced by the bill build on previous

measures undertaken by this Government to help prevent the promotion of Nazi ideology and promote tolerance and inclusion across the community.

- 2.6 Immediately following the conclusion of the Attorney General's second reading speech, the Legislative Assembly resolved to refer the Bill to the Legislative Assembly Committee on Law and Safety for inquiry and report, including consideration of its constitutional validity.

## 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 and freedom of expression*

- 2.7 The Bill amends the Crimes Act by inserting a new section 93ZA, which consolidates, clarifies and expands existing offence provisions relating to the public display of Nazi symbols and other public conduct indicating support for Nazi ideology.
- 2.8 Proposed subsections 93ZA(1) and (2) substantially replicate existing offences prohibiting the intentional public display of Nazi symbols without reasonable excuse. These provisions retain the existing fault elements, defences and penalty structure, including higher penalties where the conduct occurs on or near a defined 'Jewish place'.
- 2.9 Proposed subsections 93ZA(3) and (4) expand the scope of existing offences by extending criminal liability beyond the display of Nazi symbols to include broader public conduct that '... indicates support for Nazi ideology by invoking imagery or characteristics that a reasonable person would consider to be associated with Nazi ideology'.
- 2.10 Proposed subsection 93ZA(3) creates an aggravated offence where the relevant conduct occurs 'on or near a Jewish place'. The offence requires that a person knowingly engages in the public conduct without reasonable excuse, and that the conduct would cause a reasonable person to fear harassment, intimidation or violence, or fear for their safety. The offence carries a maximum penalty of a \$22,000 fine (200 penalty units) or two years imprisonment, or both, for an individual, and a \$110,000 fine (1,000 penalty units) for a corporation.
- 2.11 Proposed subsection 93ZA(4) applies similar offence elements to conduct occurring other than on or near a Jewish place. The maximum penalty is an \$11,000 fine (100 penalty units) or 12 months imprisonment, or both, for an individual, and a \$55,000 fine (500 penalty units) for a corporation.
- 2.12 For the purposes of section 93ZA, a 'Jewish place' is defined to include a synagogue, a Jewish school or the Sydney Jewish Museum (proposed subsection 93ZA(12)).
- 2.13 Proposed subsections 93ZA(5) and (6) provide that the display of a swastika in connection with Buddhism, Hinduism or Jainism does not constitute a Nazi symbol for the purposes of the section. They also provide that a reasonable excuse includes conduct carried out reasonably and in good faith for academic, artistic or educational purposes, or for another purpose in the public interest.
- 2.14 The Bill would also confer additional enforcement powers on police officers to direct a person to remove a suspected Nazi symbol from public display. A failure to comply

with such a direction without reasonable excuse would constitute a separate offence (proposed subsection 93ZA(10)) carrying a maximum penalty of a \$2,200 fine (20 penalty units) or three months imprisonment, or both. These powers are expressly stated not to be subject to the limitations imposed by Part 14 of the LEPRA (proposed subsection 93ZA(11)).

**The Bill amends the *Crimes Act 1900* by inserting a new section 93ZA to consolidate and expand existing offences relating to the public display of Nazi symbols and to introduce new offences capturing a broader range of public conduct indicating support for Nazi ideology.**

**Proposed subsections 93ZA(3) and (4) extend criminal liability beyond the display of Nazi symbols to include public conduct that invokes imagery or characteristics associated with Nazi ideology where that conduct would cause a reasonable person to fear harassment, intimidation or violence, or fear for their safety. Where such conduct occurs on or near a Jewish place, an offence under subsection 93ZA(3) carries a maximum penalty of a \$22,000 fine (200 penalty units) or two years imprisonment, or both, for an individual, and an \$110,000 fine (1,000 penalty units) for a corporation. Where the conduct occurs 'other than on or near a Jewish place', the offence carries a maximum penalty of an \$11,000 fine (100 penalty units) and/or 12 months imprisonment for an individual and a \$55,000 fine (500 penalty units) for a corporation.**

**The proposed provisions also confer additional enforcement powers on police officers to direct the removal of suspected Nazi symbols from public display. A failure to comply with such a direction without reasonable excuse would constitute a separate offence, punishable by a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both. These powers operate outside the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.**

**By broadening the scope of prohibited conduct and empowering police to intervene directly in expressive activity, the Bill burdens freedom of expression and the implied freedom of political communication. The Committee notes that freedom of expression and freedom of association are core civil and political rights protected under Articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR).<sup>2</sup>**

**The Committee acknowledges that the Bill seeks to address serious and recent antisemitic incidents and is intended to protect individuals and communities from conduct that may incite hatred, intimidation or violence. The Committee also notes that the Bill includes exemptions for religious, academic, artistic, educational and public interest purposes.**

**However, the Committee considers that the expansion of criminal liability to broadly framed categories of expressive conduct, together with significant criminal penalties and immediate enforcement powers, raises questions as to whether the resulting burden on the implied freedom of political communication is reasonably appropriate and adapted to**

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

**achieving a legitimate purpose. The Committee further notes that the Bill has been referred by the Legislative Assembly to the Legislative Assembly Committee on Law and Safety for inquiry and report, including consideration of its constitutional validity. For these reasons, the Committee refers the issue to Parliament for further consideration.**

*Freedom of assembly*

- 2.15 Part 4 of the Summary Offences Act regulates and facilitates the conduct of public assemblies in NSW. Section 24 of the Act provides that a person who participates in an authorised public assembly is not guilty of an offence relating to participating in an unlawful assembly or the obstruction of any person, vehicle or vessel in a public place.
- 2.16 Schedule 2.2 of the Bill amends section 24 by inserting a new subsection to clarify that a person participating in an authorised public assembly may still be guilty of another offence while participating in the assembly, including an offence relating to the purpose of the assembly.
- 2.17 In his second reading speech, the Attorney General explained that the amendment responds to:

... an erroneous public perception that an authorised public assembly is effectively endorsed by police, and that participation provides broad immunity from being charged with any offence, such as the inciting racial hatred offence under section 93ZAA.

**The Bill inserts a new subsection 24(2) into the *Summary Offences Act 1988* to clarify that participation in an authorised public assembly does not provide immunity from liability for other criminal offences committed during the assembly, including offences relating to the purpose of the assembly.**

**The proposed amendment affects the circumstances in which the right to freedom of assembly and freedom of movement may be exercised, which are protected under Articles 12, 21 and 22 of the International Covenant on Civil and Political Rights (the ICCPR).<sup>3</sup> These rights are not absolute and may be subject to lawful restrictions that are necessary in the interests of public safety, public order, or the protection of the rights and freedoms of others.**

**The Committee notes that the amendment does not create new offences or confer new enforcement powers. Rather it clarifies the existing legal position that authorisation to assemble does not displace the operation of other criminal laws. The Committee further notes that the amendment is directed at addressing misconceptions regarding the scope of protection afforded by authorised assemblies, particularly in circumstances involving conduct that may incite hatred or intimidation. In the circumstances, the Committee considers that the amendment represents a permissible and proportionate clarification of the law and makes no further comment.**

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

*Procedural fairness (right to a fair hearing)*

- 2.18 The Bill inserts a new subsection 93ZA(7) into the Crimes Act, which provides that offences under section 93ZA(1) – (4) are to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment.
- 2.19 Schedule 2.1 of the Bill amends the Criminal Procedure Act to classify offences under the new section 93ZA as indictable offences that are triable summarily.
- 2.20 The offences created under section 93ZA carry significant maximum penalties, including custodial sentences of up to two years imprisonment, and apply to conduct that may be expressive in nature.
- 2.21 The summary classification of offences would enable police to exercise powers under section 11 of LEPPRA to require a person to disclose their identity where an officer reasonably suspects the person may be able to assist in the investigation of a section 93ZA offence because they were at or near the relevant location before, during or shortly after an incident.

**The Bill proposes to require that offences under proposed subsections 93ZA(1) – (4) of the *Crimes Act 1900* are to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment. The Bill also amends the *Criminal Procedure Act 1986* to classify the offences as indictable offences that are triable summarily.**

**The Committee notes that the amendments remove any capacity for an accused person to elect for a trial on indictment. As a result, individuals charged with offences carrying maximum penalties of up to two years imprisonment may be denied procedural protections associated with indictable proceedings, including the possibility of trial by jury.**

**The Committee notes that offences under section 93ZA apply to conduct that may be expressive in nature and that the summary classification of these offences has consequential effects beyond the mode of trial. In particular, it enables police officers to exercise additional investigative powers under section 11 of the *Law Enforcement (Powers and Responsibilities) Act 2002* to require the disclosure of a person's identity.**

**The Committee acknowledges that the amendment may be intended to promote the efficient and expeditious determination of criminal matters and to facilitate timely police investigation. However, the Committee considers that the combination of significant penalties, exclusive prosecutorial election, and investigative consequences gives rise to concerns regarding procedural fairness. For these reasons, the Committee refers the issue to Parliament for further consideration.**

*Broad or insufficiently defined offences*

- 2.22 Proposed section 93ZA creates offences that apply to conduct carried out by a 'public act' and to conduct that 'indicates support for Nazi ideology' by invoking imagery or characteristics associated with that ideology.
- 2.23 While proposed section 93ZA sets out a number of offence elements, the Bill does not provide an exhaustive definition of what constitutes a 'public act' or of the types of conduct that may be taken to 'indicate support for Nazi ideology'.

**Proposed section 93ZA creates new offences that apply to conduct carried out by a 'public act' and to conduct that 'indicates support for Nazi ideology' by invoking imagery or characteristics associated with that ideology.**

**While the Bill includes a number of limiting features, including fault elements, an objective fear test, and specified exemptions, it does not exhaustively define the scope of key concepts such as 'public act' or the types of conduct that may be regarded as indicating support for Nazi ideology. As a result, the application of the offences will depend on evaluative judgments by police officers and courts as to the meaning and effect of expressive conduct in particular circumstances.**

**The Committee notes that these offences extend beyond the display of specific symbols to capture a broad range of expressive conduct and carry significant maximum penalties, including custodial sentences of up to two years imprisonment. The breadth of offences is also relevant given the conferral of immediate enforcement powers on police officers, including powers to direct the removal of suspected Nazi symbols from public display.**

**The Committee generally comments on offence provisions that may give rise to uncertainty, particularly where those provisions expose individuals to significant criminal penalties, and that rely on broadly framed concepts to determine criminal liability. The Committee considers that clarity is important where offences regulate expressive conduct and confer discretionary enforcement powers. For these reasons, the Committee refers the issue to Parliament for further consideration.**

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

*Wide and insufficiently defined powers – new police powers*

2.24 The Bill confers new enforcement powers on police officers under proposed section 93ZA of the Crimes Act, including the power to direct a person to remove a suspected Nazi symbol from public display where a police officer 'reasonably suspects' that the person is committing an offence under proposed subsections 93ZA(1) or (2).

2.25 In his second reading speech, the Attorney General explained that:

Proposed section 93ZA (9) provides that a removal direction may be given orally or in writing, must specify the period within which the direction must be complied with, and may be withdrawn by the police officer in the same way the direction was given. Such requirements make clear that removal directions are intended as a temporary de-escalation measure, enabling immediate action while investigations into the suspected Nazi symbol offence continue. Proposed section 93ZA (10) provides that breach of a removal direction without reasonable excuse would constitute an offence. The maximum penalty for noncompliance is 20 penalty units, three months imprisonment, or both.

**The Bill confers new enforcement powers on police officers under proposed section 93ZA of the Crimes Act 1900, including a power to**

**direct a person to remove a suspected Nazi symbol from public display where a police officer 'reasonably suspects' that an offence is being committed.**

**The exercise of this power is dependent on a police officer's reasonable suspicion and may be exercised immediately, prior to any determination of criminal liability. A failure to comply with a removal direction without reasonable excuse constitutes a separate criminal offence, punishable by a maximum penalty of a \$2,200 fine (20 penalty units) or three months imprisonment, or both.**

**The Committee notes that the removal direction power is expressly excluded from the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*. As a result, the scope and operation of the power are not subject to the usual statutory constraints governing police directions in public places.**

**The Committee acknowledges that the power is intended to operate as a temporary de-escalation measure and to enable police to respond appropriately to conduct associated with antisemitic intimidation. However, the Committee considers that the breadth of the power, its reliance on evaluative judgment, and the criminal consequences of non-compliance mean that the exercise of the power may have immediate and significant effects on individual rights and liberties.**

**The Committee generally comments where legislation makes rights and liberties dependent upon broadly defined administrative powers, particularly where non-compliance attracts criminal penalties and the power operates outside existing statutory safeguards. For these reasons, the Committee refers the issue to Parliament for further consideration.**

### 3. Environmental Planning and Assessment Amendment (Bushfire Protection) Bill 2025\*

Date introduced	20 November 2025
House introduced	Legislative Assembly
Member with carriage	Mr Michael Regan MP
	*Private member's bill

#### Purpose and description

- 3.1 The object of the Bill is to amend the *Environmental Planning and Assessment Act 1979* (the **Act**) to require the Commissioner of the NSW Rural Fire Service (**RFS**) to designate certain land as bush fire prone land in certain circumstances and to require a council to consult with the Commissioner before preparing a planning proposal that will affect bush fire prone land.

#### Background

- 3.2 The Bill proposes to insert section 3.25A into the Act to prescribe special consultation procedures for planning proposals on bush fire prone land.
- 3.3 Under proposed section 3.25A, a planning proposal authority must consult with the Commissioner of the RFS where the proposal would:
- permit residential accommodation
  - reduce the minimum lot size for subdivision
  - permit development for a special fire protection purpose.
- 3.4 The Bill also seeks to amend the existing definition of 'bush fire prone land' under the Act to establish the RFS as the agency responsible for the mapping of bush fire prone land in NSW.
- 3.5 During his second reading speech, Mr Michael Regan MP explained that the object of the bill is '... safeguarding the role of RFS advice in strategic planning decisions', and noted that 'The RFS is best placed to be the custodian of the bushfire-prone land mapping functions ...'.

#### 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. Forestry Amendment (Bungabbee State Forest Revocation) Bill 2025

Date introduced	20 November 2025
House introduced	Legislative Council
Member with carriage	The Hon Tara Moriarty MLC

### Purpose and description

- 4.1 The object of the Bill is to transfer the land dedicated as Bungabbee State Forest No 171 to the Crown as Crown land under the *Crown Land Management Act 2016* to enable the State to transfer the land in accordance with the Widjabul Wia-bal Goorina Indigenous Land Use Agreement (the **ILUA**), as registered on 19 April 2023.

### Background

- 4.2 The Bill proposes to amend the *Forestry Act 2012* to revoke the declaration of Bungabbee State Forest as a special management zone and State forest, and vest the relevant land in the Crown.

- 4.3 During her second reading speech, the Hon Tara Moriarty MLC said that:

These revocations are critical steps to enable the transfer of this land. Once revoked, the land will become Crown land and then can be transferred to the Widjabul Wia-bal Gurrumbil Aboriginal Corporation as the registered native title body corporate, or RNTBC, for this ILUA.

- 4.4 In explaining the reasons for the transfer of land, the Minister stated:

It is about delivering on a commitment made to the Widjabul Wia-bal, the traditional owners for Country in part of the Northern Rivers region, to transfer ownership of a culturally significant site.

- 4.5 The Bill provides that the vesting of land does not extinguish an easement over the land and is subject to native title rights and interests.

### Issues considered by the Committee

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

##### *Commencement by proclamation*

- 4.6 Clause 2 of the Bill provides that it commences on a date or dates to be appointed by proclamation.

- 4.7 In her second reading speech, the Minister explained:

The bill is proposed to commence on proclamation to enable necessary steps to occur prior to the State forest dedication being revoked and the

land being transferred. A key step in that process is finalising a land survey ... which is expected to be completed later this year, depending on weather conditions.

....

The Government has committed to completing the transfer by 30 June 2026.

**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. In this case, native title rights are contingent on the Bill's commencement. However, the Committee acknowledges that a flexible commencement date is required to enable the necessary administrative arrangements to be made for the transfer of land. The Government has also committed to completing the transfer by 30 June 2026, which provides some measure of certainty regarding timing. For these reasons the Committee makes no further comment.**

## 5. Future Jobs and Investment Bill 2025

Date introduced	19 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Paul Scully MP

### Purpose and description

5.1 The objects of the Bill are to:

- (a) establish the Future Jobs and Investment Authority (the **Authority**) and the Future Jobs and Investment Fund (the **FJI Fund**)
- (b) provide a framework for strategic intervention to encourage economic growth and development in regions experiencing, or likely to experience, structural economic change as a result of changes in demand for coal or coal-fired power generation, including by:
  - (i) facilitating strategic planning, development and the use of land in those regions
  - (ii) facilitating the development of diverse and sustainable economies for those regions
  - (iii) supporting workers and businesses in the coal mining and coal-fired power station sectors and supply chains with workforce planning.

### Background

5.2 The Bill seeks to establish a statutory body and fund to ensure that regions are equipped with the tools, data and frameworks they need to address changing energy markets and demand for labour in the coal mining and coal-fired power station sectors.

5.3 The Bill would confer a range of powers and functions on the Authority to support economic diversification in coal-producing regions. The Bill would also empower the Authority and Minister with regulatory powers, and delegation and sub-delegation powers.

5.4 In his second reading speech, the Hon Paul Scully MP, Minister for Planning and Public Spaces, stated that the Bill was developed following consultation with coal-producing regions, and that it would establish a 'dedicated statutory body' to lead '... transformational opportunities, enable investment and create new jobs.' The Minister added that:

... the authority will have the powers and functions to activate land and infrastructure, attract investment to create new jobs, lead genuine community engagement, and position workforce and supply chains to seize new, diversified opportunities.

- 5.5 The Bill would also amend the *Mining Act 1992* to abolish the Royalties for Rejuvenation Fund and enable payments from the Coal Authorities Allocations Fund into the FJI Fund to meet the costs associated with establishing and operating the Authority.

## Issues considered by the Committee

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

#### *Commencement by proclamation*

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

**The proposed Act would commence on a day or days 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 the administrative and organisational arrangements necessary to establish the Future Jobs and Investment Authority and the Future Jobs and Investment Fund. For this reason, the Committee makes no further comment.**

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

#### *Wide delegation of powers*

- 5.7 The Bill confers a broad range of functions on the Minister and the Authority, and also provides for delegation of these functions.
- 5.8 Proposed section 6 sets out the Minister's functions, including functions that may be conferred by the regulations under proposed subsection 6(d). Under proposed section 8, the Minister may delegate functions to the Secretary or an 'authorised person', the latter defined to include the chief executive officer, a member of staff of the Department, or 'another person prescribed by the regulations'.
- 5.9 Similarly, proposed section 17 enables the Authority to delegate its functions to the chief executive officer or an authorised person.
- 5.10 Proposed sections 25(1) and 78(1) further enable the chief executive officer and the Secretary to sub-delegate functions delegated to them by the Minister and the Authority to an 'authorised person'. Under proposed subsections 25(4) and 78(4) an authorised person may include a 'person prescribed by the regulations'.

**The Bill would create the Future Jobs and Investment Authority (the Authority) and establish the functions of the Minister and the Authority under proposed sections 6 and 12. Proposed sections 8 and 17 would permit the Minister and the Authority to delegate those functions to the**

**Secretary, the chief executive officer or an 'authorised person'. Proposed subsections 25(1) and 78(1) would also permit the Secretary and the chief executive officer to sub-delegate their delegated functions to an 'authorised person' who may include persons 'prescribed by the regulations'.**

**The Committee notes that the Bill would therefore permit statutory functions to be delegated and sub-delegated to a class of persons that is not exhaustively defined in the primary legislation and that may be expanded by regulations. This may permit the exercise of public powers by private individuals who are not public officials or office holders.**

**The Committee acknowledges that allowing regulations to prescribe categories of authorised persons may provide flexibility, and that regulations are tabled in Parliament and are subject to disallowance under section 41 of the *Interpretation Act 1987*.**

**However, the Committee generally prefers that the classes of persons who may exercise statutory functions are set out in primary legislation to ensure clarity, certainty and transparency, and to facilitate appropriate parliamentary oversight. For this reason, the Committee refers the issue to Parliament for consideration.**

*Incorporation of significant matters not subject to disallowance*

- 5.11 Proposed section 7 of the Bill authorises the Minister to establish a governance framework to guide the administration of the FJI Fund. The Minister may review and amend the governance framework at any time and is required to publish it on a publicly available website that is maintained by the Department.
- 5.12 The governance framework may also affect the exercise of the Minister's functions, including by expanding or modifying functions under proposed subsection 8(3)(a)(iv).

**The Bill would permit the Minister to establish a governance framework for the administration of the Future Jobs and Investment Fund (the FJI Fund), under proposed section 7. The governance framework may also affect the exercise of the Minister's functions, including by expanding or modifying functions under proposed subsection 8(3)(a)(iv). The Minister may amend the governance framework at any time, and there is no requirement for it to be tabled in Parliament or otherwise subjected to parliamentary scrutiny.**

**The Committee generally comments on legislative provisions that permit substantive matters to be determined by external instruments that are not subject to parliamentary scrutiny. The Committee prefers that substantive elements of statutory schemes, particularly those involving the expenditure of public funds or the exercise of executive power, are set out in legislation or tabled in Parliament as regulations.**

**The Committee acknowledges that the governance framework may be intended to provide flexibility and ensure that the administration of the FJI Fund can respond to changing economic circumstances and industry needs. However, as the framework appears to play a significant role in determining how the FJI Fund operates and may affect the scope of ministerial functions, the Committee considers that it should be subject to an appropriate level of parliamentary scrutiny. For this reason, the Committee refers the issue to the Parliament for consideration.**

## 6. Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Bill 2025

Date introduced	18 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

### Purpose and description

- 6.1 The object of the Bill is to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* (the **Act**) in response to the decision of the Supreme Court of New South Wales in *Lees v State of New South Wales* [2025] NSWSC 1209 (**Lees**) by limiting the circumstances in which a police officer may give a move on direction to a person in or near a place of worship.

### Background

- 6.2 The Bill proposes to amend section 200 of the Act to limit the 'move on' powers conferred on police officers in relation to public assemblies 'in or near a place of worship'.
- 6.3 In his second reading speech, the Hon Michael Daley MP, Attorney General, referenced the recent decision of the Supreme Court in *Lees*, which invalidated the provisions inserted into the Act by the *Crimes Amendment (Places of Worship) Act 2025* (**Places of Worship Act**), which passed the Parliament in February 2025. The Attorney General explained that the Bill would address the court's decision and '... clarify the move on power to give effect to the original intention ... ' of the Places of Worship Act.
- 6.4 The Attorney General added that the Bill would:
- ... authorise police to give a move on direction to a person participating in an unauthorised demonstration, protest, procession or assembly taking place in or near a place of worship but only to a person who is, firstly, intentionally blocking, impeding or hindering a person accessing or leaving, or attempting to access or leave, the place of worship; or, secondly, harassing, intimidating or threatening a person accessing or leaving, or attempting to access or leave, the place of worship.
- 6.5 On 19 November 2025, the Bill was declared urgent by both the Legislative Assembly and the Legislative Council. The Bill passed Parliament without amendment on 27 November 2025, prior to the tabling of this Digest and, therefore, before the Committee could report on it. Section 8A(2) of the *Legislation Review Act 1987* permits the Committee to report on a bill that has passed or become an Act. In accordance with its usual practice, the Committee has considered the Bill as it was introduced.

- 6.6 Under Legislative Assembly Standing Order 188(10) and Legislative Council Standing Order 142(2), debate on a bill is typically adjourned until at least five days after the second reading speech of the mover. However, Standing Order 189 of the Assembly and Standing Order 146 of the Council set out the procedures for declaring a bill to be an 'urgent bill'. These procedures allow the Houses to proceed with all remaining stages of a bill's consideration immediately after the second reading speech, or at any time during that or any future sitting of the House.

### **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*

- 6.7 The Bill omits the invalidated subsection 200(5) of the Act, and inserts section 200AA, which establishes the circumstances in which police may give a 'move on' direction in relation to a demonstration, protest, procession or assembly in or near a place of worship.
- 6.8 Omitted subsection 200(5) allowed police officers to give a move on direction in relation to a protest if it was not an authorised public assembly under Part 4 of the *Summary Offences Act 1988*, and if the protest was occurring 'in or near a place of worship'.
- 6.9 In *Lees* the Supreme Court of NSW held that subsection 200(5) impermissibly burdened the implied freedom of political communication because it applied to any person 'in or near a place of worship', rather than being confined to conduct that interfered with persons accessing or leaving the place of worship.
- 6.10 To address the court's decision, the Bill inserts section 200AA to establish the circumstances in which police can give a move on direction in relation to a place of worship.
- 6.11 Under the provision, a police officer would not be precluded from giving a move on direction to a person in relation to a protest in or near a place of worship, where:
- that person does any of the following:
    - 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
  - the demonstration, protest, procession or assembly is:
    - not authorised under Part 4 of the *Summary Offences Act 1988* or is not being held substantially in accordance with an authorisation under that part
    - if held on the premises of a place of worship, not in accordance with the consent or authority of the place of worship
    - not occurring at or outside Parliament House or an office of a Member of Parliament
    - not forming part of industrial action or an industrial dispute or campaign.

6.12 In his second reading speech, the Attorney General explained that:

The amended move on power incorporates the language of section 214B of the Crimes Act, which is targeted towards protecting persons accessing or leaving, or attempting to access or leave, the place of worship.

6.13 The Attorney General also clarified that the police powers to give a move on direction would only apply where the demonstration, protest, procession or assembly is not authorised, and that by narrowing the scope of the powers, the provisions would '... have a lesser burden on the implied freedom of political communication to protect its constitutional validity.'

6.14 The Bill also clarifies that 'a place of worship' is defined in section 214B(4) of the *Crimes Act 1900*.

**The Bill amends the *Law Enforcement (Powers and Responsibilities) Act 2002* (the Act) to provide for the circumstances in which police may give a 'move on' direction to a person in relation to a protest in or near a place of worship. The amendments permit police to give a move on direction only 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 power is further limited in that it does not extend to authorised assemblies, assemblies with the consent of the place of worship, Parliament-related assemblies, or industrial action.**

**The Committee notes that the amendments respond directly to the recent decision of the Supreme Court in *Lees v State of New South Wales (Lees)*, in which subsection 200(5) of the Act was held to be invalid for impermissibly burdening 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 notes that while the amendments still allow police to give move on directions, they limit the circumstances in which such directions may be given, in line with the issues identified in *Lees*. On that basis, it is unlikely that the Bill would impermissibly burden the implied freedom of political communication. Therefore, in the circumstances, the Committee makes no further comment.**

## 7. Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025

Date introduced	19 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Jihad Dib MP

### Purpose and description

- 7.1 The objects of the Bill are:
- (a) to amend the *Motor Accident Injuries Act 2017* (**the Act**) to prohibit claim farming practices by making it an offence to:
    - (i) make certain contact with a potential claimant under the Act
    - (ii) pay or receive referral fees in relation to claims for statutory benefits or damages under the Act (**claims**)
  - (b) to amend the *Legal Profession Uniform Law Application Act 2014* to provide that, if the proposed claim farming practice prohibitions are contravened by a lawyer or legal practice:
    - (i) legal costs are not recoverable by the lawyer or practice in relation to the claim
    - (ii) the contravention is capable of constituting unsatisfactory professional conduct or professional misconduct by the lawyer
  - (c) to make certain other minor amendments to the Act and certain other instruments.

### Background

- 7.2 The Bill seeks to amend the Act to ban the practice of 'claim farming'. In particular, the Bill would prevent a person from contacting potential claimants to solicit claims in circumstances where the contacting party or a third party would receive compensation as a result of that contact.
- 7.3 The Bill would also amend the *Legal Profession Uniform Law Application Act 2014* to impose penalties on legal practitioners who contravene the proposed claim farming offences.
- 7.4 In his second reading speech, the Hon Jihad Dib MP, Minister for Customer Service and Digital Government, stated that the Bill is intended to address '... unmeritorious

claims, unwanted contact, delay in appropriate treatment and care, and confusion for someone seeking to access help.'

- 7.5 The Minister also stated that the Bill '... follows on from the Claim Farming Practices Prohibition Act 2025 ... ' and is '... largely modelled on that Act ... ', and noted that 'targeted consultation' had been undertaken when developing the Bill.
- 7.6 The Committee reported on the Claim Farming Practices Bill 2025 in Digest No. 27/58. The comments in this report are consistent with the Committee's previous comments in relation to the issue of extraterritoriality, but differ in relation to the issue of the right to the presumption of innocence.

## Issues considered by the Committee

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

#### *Extraterritorial application of laws*

- 7.7 Under proposed section 6.44(b), the new claim farming offences would apply to conduct outside of the jurisdiction of NSW, '... as far as the legislative powers of the State permit.'

**The Bill proposes to extend the legislative jurisdiction of the Act beyond the State of NSW. The Committee generally comments on provisions that have extraterritorial effect as they impact on the rule of law principle that a person is entitled to know the law that applies to them at any given time.**

**Extraterritorial application of the Act could create conflicts between the Act and another jurisdiction's laws of a similar nature. In addition, the provision is broadly worded to apply the Act '... as far as the legislative powers of the State permit.' This may create uncertainty for individuals seeking to understand the extent of their legal obligations beyond NSW. For these reasons, the Committee refers the issue to Parliament for consideration.**

#### *Right to the presumption of innocence – reversal of onus of proof*

- 7.8 The Bill seeks to insert section 6.46 into the Act, which would make it an offence with a maximum penalty of a \$55,000 fine (500 penalty units) for a person (the **contacting party**) to:
- (a) contact another person (the **potential claimant**) to solicit that person to make a claim, if the contacting party is or expects to be compensated for that contact (6.46(1)(b)(i)-(ii))
  - (b) contact a potential claimant to solicit that person to make a claim, if the contacting party arranges for someone else to receive or expect to receive compensation for that contact (6.46(1)(b)(iii)-(iv))
  - (c) contact a potential claimant to refer them to another person in relation to a claim, if the contacting party is or expects to be compensated for that contact (6.46(2)(b)(i)-(ii))

- (d) contact a potential claimant to refer them to another person in relation to a claim, if the contacting party arranges for someone else to receive or expect to receive compensation for that contact (6.46(2)(b)(iii)-(iv)).

7.9 The proposed offences would not apply in certain circumstances, including where:

- (a) the potential claimant is contacted in accordance with the *Civil Procedure Act 2005* in relation to representative proceedings (6.46(4)(a))
- (b) a law practice contacts a potential claimant that the practice has provided legal services to before and reasonably believes the potential claimant will not object to the contact (6.46(4)(b))
- (c) a law practice contacts a potential claimant that the practice has previously assisted under the advisory service established at section 7.49 of the Act (6.46(4)(c))
- (d) a law practice contacts a potential claimant after receiving a request to do so from a community legal service (6.46(4)(d)).

7.10 Proposed subsection 6.46(5) provides that the exemptions under subsection 6.46(4) place an evidentiary burden on the accused.

7.11 The Bill also seeks to insert section 6.47, which would make it an offence with a maximum penalty of a \$55,000 fine (500 penalty units) for a person to:

- (a) receive or agree to receive compensation for referring a claim to another person (6.47(1)(a)-(b))
- (b) arrange for a third party to receive compensation for referring a claim to another person (6.47(2)(c)).

7.12 The offences at section 6.47 would not apply if:

- (a) a law practice acting for a claimant refers a matter relating to the claim to another person to provide a service in relation to the claim (6.47(4)(a))
- (b) all or part of a law practice is being sold to a purchasing law practice (6.47(4)(b)).

7.13 Proposed subsection 6.47(5) provides that the exemptions under subsection 6.47(4) also place an evidentiary burden on the accused.

7.14 In addition, proposed section 6.48 would provide that a person does not commit an offence under sections 6.46 or 6.47 where the conduct relates to public advertising of legal services.

**The Bill seeks to create new offences to prohibit claim farming practices in relation to motor accident injury claims. Those offences include exemptions under proposed sections 6.46(4) and 6.47(4) for specified**

**circumstances. Proposed subsections 6.46(5) and 6.47(5) place the evidential burden on the accused to establish that an exemption applies.**

**By requiring the accused to prove the existence of an exemption, the Bill may undermine the common law principle that a person charged with a criminal offence has a right to be presumed innocent until proven guilty.**

**The Committee recognises that the relevant offences do not attract a custodial penalty, and that the Bill is intended to protect vulnerable people and the legal system from fraudulent claims. However, unlike the *Claim Farming Practices Prohibition Act 2025*, the offences in this Bill apply to individuals and carry a significant maximum penalty of a \$55,000 fine (500 penalty units). For these reasons, the Committee refers the issue to Parliament for consideration.**

## 8. Road Transport Amendment (Medicinal Cannabis) Bill 2025\*

Date introduced	20 November 2025
House introduced	Legislative Assembly
Member with carriage	Mr Alex Greenwich MP
	*Private member's bill

### Purpose and description

- 8.1 The objects of the Bill are:
- (a) to limit when certain offences under the *Road Transport Act 2013* (**the Act**) and the *Marine Safety Act 1998*, relating to driving a vehicle or operating a vessel with the presence of THC in a person's oral fluid, blood or urine, apply to users of medicinal cannabis
  - (b) to limit when certain enforcement powers under the *Road Transport Act 2013* and the *Marine Safety Act 1998* may be used in relation to users of medicinal cannabis.

### Background

- 8.2 The Bill proposes amendments to the Act to create exemptions from sections 111(1) and 111A(1)-(3), which create offences relating to driving with any prescribed illicit drug in a person's oral fluid, blood or urine.
- 8.3 Under the current law, the presence of any amount of delta-9-tetrahydrocannabinol (**THC**) in a driver's system constitutes an offence under section 111(1).
- 8.4 Section 111A sets out offences relating to driving with a combination of alcohol and a prescribed illicit drug in a person's system. Under the current law, the presence of any amount of THC in a driver's system can be used to constitute an offence under section 111A.
- 8.5 Proposed subsections 111(2A) and 111A(6) would provide defences to the relevant offences if:
- (a) THC was the only prescribed illicit drug present in the person's system
  - (b) the THC had been lawfully used.
- 8.6 In his second reading speech, Mr Alex Greenwich MP stated:

A roadside drug test can detect the presence of THC for up to a month after it was last consumed, long after the side effects of THC have worn off—normally only a few hours after consumption. People who lawfully use

cannabis as medicine are being penalised when they drive with huge fines and loss of licence. The impacts on their lives can be devastating, including being prevented from working, studying, caring and getting to appointments, in addition to the associated stigma.

- 8.7 The Committee notes that provisions of this Bill are substantially similar to the Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2025 (the **Exemptions from Offences Bill**), which was introduced by Ms Cate Faehrmann MLC into the Legislative Council on 28 May 2025. Debate on that bill was adjourned after Ms Faehrmann's second reading speech and has not yet resumed.
- 8.8 The Committee reported on the Exemptions from Offences Bill in Digest 31/58,<sup>4</sup> commenting on the issue of reversal of the onus of proof, as that Bill required an accused person to prove that the THC in their system was lawfully used in order to establish a defence to a prosecution.
- 8.9 In explaining the operation of the bill for which he has carriage, Mr Greenwich stated that 'In the first six months after assent of the bill, the exemption would operate as a defence in court to provide time to update police operating guidelines.'
- 8.10 However, after the six month period, a penalty notice or court attendance notice would not be able to be issued to an alleged offender if the person provides a police officer with evidence that the THC has been lawfully used.
- 8.11 The current Bill therefore differs from the Exemptions from Offences Bill because, after six months, the reverse onus of proof would no longer apply. Although the accused must still provide the police officer with evidence of lawfulness, the consequence of not providing the evidence would be the issuing of a penalty notice, rather than a conviction.

### 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*.**

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<sup>4</sup> Parliament of New South Wales, Legislation Review Committee, [Legislation Review Digest No 8 of 2025](#), 3 June 2025.

## 9. Strata Schemes Legislation Amendment (Miscellaneous) Bill 2025

Date introduced	19 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Anoulack Chanthivong MP

### Purpose and description

9.1 The objects of the Bill are to:

- (a) amend the *Strata Schemes Management Act 2015* and the *Strata Schemes Development Act 2015* to implement some of the recommendations made in the report on the statutory review of the Acts tabled in Parliament on 29 November 2021
- (b) make corresponding amendments to the *Community Land Management Act 2021* and the *Conveyancing Act 1919*
- (c) make other miscellaneous amendments to those Acts.

### Background

9.2 The Bill would make changes to the State's regulatory framework for strata schemes. These changes reflect recommendations from the 2021 statutory review of the *Strata Schemes Development Act 2015* and the *Strata Schemes Management Act 2015*.

9.3 In his second reading speech, the Hon Anoulack Chanthivong MP, Minister for Better Regulation and Fair Trading, and Minister for Building, stated:

Strata title is a cornerstone in our housing landscape. It is crucial that the rights and obligations in strata laws help boost confidence in strata living. Ensuring that strata is well functioning, transparent and fair is fundamental to supporting the Government's broader housing delivery strategy.

### Issues considered by the Committee

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

## 10. Summary Offences Amendment (Police Memorial Offences) Bill 2025\*

Date introduced	20 November 2025
House introduced	Legislative Assembly
Member with carriage	Mr Roy Butler MP
	*Private member's bill

### Purpose and description

- 10.1 The object of the Bill is to maintain the amenity and solemn nature of memorials to police officers.

### Background

- 10.2 The Bill seeks to amend the *Summary Offences Act 1988* (the **Act**) to extend the protections that are currently afforded to war memorials to police memorials.
- 10.3 The existing offence of damaging or defacing a protected place, under section 8(2) of the Act, carries a maximum penalty of a \$4,400 fine (40 penalty units). The existing offence of engaging in 'nuisance' behaviour or committing an 'indecent act' in connection with a war memorial, under section 8(3), carries a maximum penalty of a \$2,200 fine (20 penalty units). The Bill would expand both of these offences to include police memorials.
- 10.4 In his second reading speech, Mr Roy Butler MP explained:

As it stands, people can be prosecuted for damaging any public property, but this bill will make police memorials protected places on par with war memorials. This will allow a judge to rule that a person's damage or disrespect to the memorial is driven by motives beyond just mindless destruction of public property and could, or should, attract a higher penalty.

### 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*.**

## 11. Terrorism and Other Legislation Amendment Bill 2025

Date introduced	22 December 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Yasmin Catley MP

### Purpose and description

11.1 The objects of the Bill are as follows:

- (a) to amend the *Crimes Act 1900* (the **Crimes Act**) to insert an offence in relation to the display of prohibited terrorist organisation symbols, including the ISIS flag
- (b) to amend the *Firearms Act 1996* to:
  - (i) limit the number of firearms that can be possessed and used by licensees
  - (ii) recategorise certain types of firearms that can legally be possessed and used
  - (iii) reduce the general term for a firearms licence from 5 years to 2 years
  - (iv) require licensees to be Australian citizens
  - (v) remove the right for administrative reviews by the NSW Civil and Administrative Tribunal in relation to decisions under the Act, other than certain decisions in relation to firearms prohibition orders
  - (vi) make other related amendments
- (c) to amend the *Firearms Regulation 2017* to make consequential amendments
- (d) to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to give police officers the power to direct persons participating in protests, demonstrations, processions or assemblies to remove face coverings if the police officers reasonably suspect the person may have committed, or are likely to commit, an offence and to make amendments consequent on the amendments described in paragraph (f)
- (e) to amend the *Summary Offences Act 1988* to make consequential amendments
- (f) to amend the *Terrorism (Police Powers) Act 2002* to provide that the Commissioner of Police (the **Commissioner**) or a Deputy Commissioner of Police (a **Deputy Commissioner**) may issue a public assembly restriction declaration if a terrorist act is declared and a public assembly in a specified area is likely to cause a reasonable person to fear for their safety or pose a risk to community safety.

## Background

11.2 The Bill amends multiple Acts providing for the regulation of firearms, the authorisation of public assemblies, and related law enforcement powers.

11.3 During her second reading speech, the Hon Yasmin Catley, Minister for Police and Counter Terrorism, acknowledged the devastating terror attack at Bondi Beach on 14 December 2025, which brought about the Bill's development. The Minister stated that:

We cannot undo the events of that terrible day, but this bill progresses reforms that respond directly to lessons from the atrocities on that day. The Government is taking steps to protect the community and enhance social cohesion in the wake of these terrorist acts by placing sensible limits on the authorisation of public assemblies.

We are also criminalising the knowing and public display of terrorist organisation symbols and ensuring that police have the powers they need to identify individuals whom they reasonably suspect have committed any offence during a public assembly.

11.4 The Bill amends:

- the Crimes Act to make it an offence to display the symbol of a terrorist organisation
- the firearms regulatory framework under the *Firearms Act 1996* and the Firearms Regulation 2017 to modify firearm licencing requirements and approvals
- the *Terrorism (Police Powers) Act 2002*, and other relevant legislation, to provide for the making of declarations that restrict the authorisation of public assemblies in a specified area.

11.5 In explaining the existing framework regarding the authorisation of public assemblies, the Minister stated:

Part 4 of the Summary Offences Act 1988 contains a scheme to facilitate authorised public assemblies, which encourages cooperation between police and protest organisers and seeks to strike a balance between the freedom of assembly and implied freedom of political communication and the rights of other members of the public not to have their lawful activity impeded.

11.6 The Bill modifies this framework by allowing for the making of declarations that would restrict the authorisation of public assemblies following a declared terrorism incident.

11.7 On 22 December 2025, the Legislative Assembly agreed to suspend Standing Orders to allow for the introduction of the Bill without notice and for it to be considered through all stages during the sitting. On 23 December 2025, the Bill was also declared urgent by the Legislative Council. The Bill passed Parliament, with amendments, on 24 December 2025, prior to the tabling of this Digest and, therefore, before the Committee could report on it. Section 8A(2) of the *Legislation Review Act 1987* permits the Committee to report on a bill that has passed or become an Act. In accordance with its usual practice, the Committee has considered the Bill as it was introduced.

- 11.8 Under Legislative Council Standing Order 142(2), debate on a bill is typically adjourned until at least five days after the second reading speech of the mover. However, Standing Order 146 of the Council sets out the procedures for declaring a bill to be an 'urgent bill'. This procedure allows the House to proceed with all remaining stages of a bill's consideration immediately after the second reading speech, or at any time during that or any future sitting of the House.

## Issues considered by the Committee

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

#### *Implied freedom of political communication – restriction of authorised public assemblies*

- 11.9 The Bill amends the *Terrorism (Police Powers) Act 2002* to insert Division 3A, which relates to public assembly restriction declarations. Section 23B(2) enables the Commissioner of Police or a Deputy Commissioner of Police to make a declaration to restrict the authorisation of public assemblies (a **public assembly restriction declaration**).
- 11.10 Subsection 23B(3) provides that a public assembly restriction declaration can be made within 14 days of an authorisation or declaration of an act of terrorism under Part 2AAA.
- 11.11 Under subsection 23B(3)(b), a public assembly restriction declaration can only be made if the Commissioner or Deputy Commissioner is satisfied that the holding of public assemblies in the specified area would be likely to cause a reasonable person to fear:
- harassment, intimidation or violence, or for their safety, or
  - a risk to community safety, including the safety of participants in public assemblies in the area.
- 11.12 Under subsection 23B(4) a public assembly restriction declaration lasts for 14 days unless it is extended or revoked. It can be extended for no more than 14 days at a time and up to a total period of 90 days.
- 11.13 Schedule 4 of the Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* by inserting section 200(5) to clarify that a police officer is not precluded from giving a 'move on' direction in relation to a demonstration, protest, procession or assembly if it is being held in an area that is the subject of a current public assembly restriction declaration. Subsection 200(2) otherwise precludes a police officer from giving a direction in relation to a genuine demonstration or procession or organised assembly.
- 11.14 Additionally, Schedule 5 of the Bill amends the *Summary Offences Act 1988* to provide that public assemblies cannot be authorised under sections 23 or 26 if the assembly will be held in an area that is subject to a declaration in force. The prohibition does not apply to a public assembly that is part of an industrial action, dispute or campaign.
- 11.15 Section 27B effectively revokes an existing authorisation for a public assembly if a declaration is made, extended or varied over the area authorised for the public assembly.

The Bill amends multiple Acts to restrict the authorisation of public assemblies and expand police powers following acts of terrorism. It amends the *Terrorism (Police Powers) Act 2002* to grant special powers to the Commissioner or a Deputy Commissioner of Police to declare an area as one where the authorisation of public assemblies is restricted. The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to clarify that a police officer is not precluded from giving 'move on' directions to persons participating in a public assembly if the area is subject to a public assembly restriction declaration. Additionally, the Bill amends the *Summary Offences Act 1988* to prohibit a public assembly from being authorised. The authorisation of a public assembly would normally grant a person immunity from prosecution in relation to that assembly. Therefore, prohibiting authorisation means that those participating would not be protected from prosecution for certain offences under the *Summary Offences Act 1988*.

The combined effect of the amendments is to limit legal protections for those participating in a public assembly and, therefore, to deter participation in such assemblies. In doing so, the Bill may infringe on the implied freedom of political communication under the Australian Constitution. The Committee generally comments on laws which could have the effect of burdening the implied freedom of political communication. The Committee notes that the implied freedom of political communication can only be validly restricted where there is a legitimate purpose, and where the restriction is reasonably appropriate and adapted to achieving that purpose.

The Committee recognises that the laws are intended to address concerns about community safety and minimise risks to social cohesion following terror attacks. It also acknowledges that the amendments do not explicitly prohibit public assemblies. However, by preventing the authorisation of public assemblies, the Bill may effectively inhibit protest activity and deter persons from engaging in legitimate political expression by making them vulnerable to prosecution.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration of whether the provisions impermissibly burden the implied freedom of political communication.

*Freedom of assembly – restriction of authorised public assemblies*

- 11.16 As noted above, the Bill amends the *Terrorism (Police Powers) Act 2002* to insert Division 3A, which relates to public assembly restriction declarations. Section 23B(2) enables the Commissioner of Police or a Deputy Commissioner of Police to make a declaration to restrict the authorisation of public assemblies (a **public assembly restriction declaration**).
- 11.17 Subsection 23B(3) provides that a public assembly restriction declaration can be made within 14 days of an authorisation or declaration of an act of terrorism under Part 2AAA.
- 11.18 Under subsection 23B(3)(b), a public assembly restriction declaration can only be made if the Commissioner or Deputy Commissioner is satisfied that the holding of

public assemblies in the specified area would be likely to cause a reasonable person to fear:

- harassment, intimidation or violence, or for their safety, or
- a risk to community safety, including the safety of participants in public assemblies in the area.

- 11.19 Under subsection 23B(4) a public assembly restriction declaration lasts for 14 days unless it is extended or revoked. It can be extended for no more than 14 days at a time and up to a total period of 90 days.
- 11.20 Schedule 4 of the Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* by inserting section 200(5) to clarify that a police officer is not precluded from giving a move on direction in relation to a demonstration, protest, procession or assembly if it is being held in an area that is the subject of a current public assembly restriction declaration. Subsection 200(2) otherwise precludes a police officer from giving a direction in relation to a genuine demonstration or procession or organised assembly.
- 11.21 Additionally, Schedule 5 of the Bill amends the *Summary Offences Act 1988* to provide that public assemblies cannot be authorised under sections 23 or 26 if the assembly will be held in an area that is subject to a declaration in force. The prohibition does not apply to a public assembly that is part of an industrial action, dispute or campaign.
- 11.22 Section 27B effectively revokes an existing authorisation for a public assembly if a declaration is made, extended or varied over the area authorised for the public assembly.

**The Bill amends multiple Acts to restrict the authorisation of public assemblies and expand police powers following acts of terrorism, as noted above. It amends the *Terrorism (Police Powers) Act 2002* to grant special powers to the Commissioner or Deputy Commissioner of Police to restrict the authorisation of public assemblies in specified areas. The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to clarify that a police officer is not precluded from giving move on directions to persons participating in a public assembly if the area is subject to a public assembly restriction declaration. Additionally, the Bill amends the *Summary Offences Act 1988* to prohibit a public assembly from being authorised. The authorisation of a public assembly would normally grant a person immunity from prosecution in relation to that assembly. Therefore, prohibiting authorisation means that those participating would not be protected from prosecution for certain offences under the *Summary Offences Act 1988*.**

**The combined effect of the amendments is the deterring or inhibiting of participation in public assemblies. The Bill may therefore infringe on the right to freedom of assembly, as contained in Article 21 of the International Covenant on Civil and Political Rights (ICCPR).<sup>5</sup> While the right to freedom of assembly protects the freedom of individuals and**

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<sup>5</sup> United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

groups to meet and engage in peaceful protest, the ICCPR recognises that derogation from these rights may be warranted in certain circumstances, including measures to protect public health and safety.

The Committee recognises that the laws are intended to address concerns about community safety and minimise risks to social cohesion following terror attacks. It also acknowledges that the amendments do not explicitly prohibit public assemblies. However, by preventing their authorisation, the Bill would unduly impact the right to freedom of assembly by exposing individuals to prosecution in association with those assemblies.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

*Freedom of expression – display of terrorist symbols*

- 11.23 The Bill amends the Crimes Act to make it an offence for a person to knowingly display a prohibited terrorist organisation symbol.
- 11.24 Section 93ZB provides that it is an offence for a person to knowingly display, by public act and without reasonable excuse, a prohibited terrorist symbol. The offence is subject to a maximum penalty of a \$22,000 fine (200 penalty units) and/or two years' imprisonment for an individual, and a \$110,000 fine (1,000 penalty units) for a corporation.
- 11.25 Subsection 93ZB(2) provides that it is a reasonable excuse if the display was done reasonably and in good faith for an academic, artistic or education purpose, or for another purpose in the public interest.

**The Bill proposes to amend the *Crimes Act 1900* (the Crimes Act) to make it an offence for a person to knowingly display, by public act and without reasonable excuse, a prohibited terrorist symbol. The offence is subject to a maximum penalty of \$22,000 (200 penalty units) or two years' imprisonment for an individual, or \$110,000 (1,000 penalty units) for a corporation.**

A 'public act', as defined in section 93Z of the Crimes Act, includes any written or visual communication to the public, such as writing, displaying notices, playing recorded material, broadcasting or communicating via social media and other electronic methods. It also includes wearing certain clothing or distributing materials to the public. Section 93ZB adopts the definition of 'terrorist organisation' from section 102.1 of the *Criminal Code Act 1995* (Cth), which includes organisations directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act, or those specified by regulations for this purpose.

The Committee previously reported in Digest No. 25/58 on the Crimes Amendment (Display of Nazi and Terrorist Symbols) Bill 2025, which prohibited the public display of a Nazi or terrorist organisation symbol by making it an offence to knowingly display, by public act and without reasonable excuse, a Nazi symbol or terrorist organisation symbol without reasonable excuse. Consistent with those comments, the Committee notes that the Bill places restrictions on freedom of

expression, specifically regarding the display of symbols. The Committee generally comments where legislation limits a person's right to expression, as it is a core right contained in Article 19 of the International Covenant on Civil and Political Rights (the ICCPR).<sup>6</sup> However, it recognises that lawful restrictions on freedom of expression may be permitted in the interests of national security or public safety, public order, the protection of public health, morals, or the rights and freedoms of others.

In this case, the Committee recognises that the Bill is intended to prevent the promotion and incitement of hate crime through terrorist symbols, particularly in light of the terrorist attack at Bondi Beach. The Committee also acknowledges that the Bill includes exceptions, including where the terrorist symbol is used reasonably and in good faith for an academic, artistic or education purpose or for another purpose in the public interest. In the circumstances, the Committee makes no further comment.

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

*Broad powers to make public assembly restriction declarations*

- 11.26 The Bill amends the *Terrorism (Police Powers) Act 2002* by inserting section 23B to grant special powers to the Commissioner of Police or a Deputy Commissioner of Police to make a public assembly restriction declaration.
- 11.27 The provision applies if:
- an authorisation is given under section 6 by a Police Officer that a terrorist act has been committed, or
  - a declaration is made under Part 2AA by the Commissioner of Police that police officers are responding to an incident that is likely to be a terrorist act.
- 11.28 Subsection 23B(3) provides that a public assembly restriction declaration can be made within 14 days of an authorisation or declaration of an act of terrorism under Part 2AAA.
- 11.29 Under subsection 23B(3)(b), a public assembly restriction declaration can only be made if the Commissioner or Deputy Commissioner is satisfied that the holding of public assemblies in the specified area would be likely to cause a reasonable person to fear:
- harassment, intimidation or violence, or for their safety, or
  - a risk to community safety, including the safety of participants in public assemblies in the area.

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<sup>6</sup> United Nations, Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 1966.

11.30 In her second reading speech, the Minister explained the rationale for public assembly restriction declarations:

Community tensions may run high in the immediate aftermath of a terrorist attack like the tragic and horrific incident in Bondi, and ensuring community safety is absolutely paramount. A public assembly held to express support for or denounce a particular community or group, or which relates to a cause that is highly significant for one or both of those community groups, could further inflame tensions and give rise to risks to public safety. The assembly of a large group of people in the aftermath of a terrorist attack can also give rise to a real risk to community safety, including to those participating in the assembly, by making those in the assembly a target and exposing everyone else in the vicinity to a risk of harm.

**The Bill proposes to amend the *Terrorism (Police Powers) Act 2002* by granting special powers to the Commissioner of Police or a Deputy Commissioner of Police to declare that the authorisation of public assemblies, within an area described in the declaration, is restricted. A declaration can be made within 14 days of the authorisation or declaration of a terrorism incident, if the Commissioner or Deputy Commissioner is satisfied that public assemblies in the area are likely to cause a reasonable person to fear harassment, intimidation or violence, fear for their safety, or create a risk to community safety.**

The Bill does not define or limit the extent of the area to which the declaration can apply. It does not include any detail on how the area is to be determined, or any requirement for it to be restricted to the area where the terrorism incident occurred. This means that the Bill grants broad powers to the Commissioner or Deputy Commissioner without being sufficiently limited or restricted. The Committee generally comments on laws that grant broad powers without being sufficiently defined, particularly where those powers can impact personal rights and liberties, such as the right to freedom of assembly.

The Committee acknowledges that the powers to restrict the authorisation of public assemblies may be intended to prevent risks to public safety and the inflammation of community tensions, following a terrorist attack. However, the Committee remains concerned that the powers are insufficiently defined, and that there are no provisions that appear to limit the application of those powers or the size of the area specified in the declaration.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

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

#### *Special powers of Police Commissioner to make and extend public assembly restriction declarations*

- 11.31 As noted above, the Bill inserts section 23B into the *Terrorism (Police Powers) Act 2002*, which grants powers to the Commissioner of Police or a Deputy Commissioner of Police to make a public assembly restriction declaration.
- 11.32 The provision applies if:
- an authorisation is given under section 6 by a Police Officer that a terrorist act has been committed, or
  - a declaration is made under Part 2AA by the Commissioner of Police that police officers are responding to an incident that is likely to be a terrorism act.
- 11.33 Subsection 23B(3) provides that a public assembly restriction declaration can be made within 14 days of an authorisation or declaration of an act of terrorism under Part 2AAA.
- 11.34 Under section 23C, the Commissioner or Deputy Commissioner have the power to extend the public assembly restriction declaration for a period of no more than 14 days, if they are satisfied that the declaration continues to be necessary on the grounds referred to in section 23B(3)(b). A public assembly restriction declaration may be extended more than once under subsection 23C(1), but the total period for which the declaration is in force must not be more than 90 days.
- 11.35 The Commissioner or Deputy Commissioner also have the power to vary a public assembly restriction declaration, under section 23D, or change the area to which the declaration applies.
- 11.36 Section 23F provides that a public assembly restriction declaration may be made, extended or varied only with the concurrence of the Police Minister. However, subsection 23F(2) provides that a declaration may be made, extended or varied without the concurrence of the Police Minister if the Police Minister is not able to be contacted at that time.
- 11.37 The declaration, and any extension or variation of the declaration, must be published in the Government Gazette and on the NSW Police Force website, under section 23E. However, subsection 23E(2) provides that a failure to publish the declaration in this way does not affect its validity.

**The Bill amends the *Terrorism (Police Powers) Act 2002* by inserting section 23B, which grants special powers to the Commissioner of Police or a Deputy Commissioner to make a public assembly restriction declaration. The Commissioner or Deputy Commissioner also has the power to vary or change the area to which the declaration applies, or extend the time period of the declaration. Although a declaration cannot be extended for more than 14 days, a declaration can be extended more than once, and up to 90 days in total.**

**The Committee generally comments on provisions that provide for the making of Executive or Ministerial declarations, particularly where those declarations may impact upon the rights, liberties or obligations of**

individuals. The Committee generally prefers that such matters are included in regulations to ensure an appropriate level of parliamentary oversight. This is because unlike declarations, regulations must be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*.

The Committee acknowledges that the powers to restrict the authorisation of public assemblies may be intended to prevent risks to public safety and social cohesion, following a terrorist attack. However, it also notes that these powers would impact on the implied freedom of political communication, and the right to freedom of assembly and expression, as explained above. The Committee is also concerned that, despite the requirements for Ministerial concurrence and the publishing of any declarations, a failure to comply with these requirements would not affect the validity of a declaration.

The Committee notes that the Bill was declared urgent and that it passed Parliament before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for further consideration.

## 12. Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2025\*

Date introduced	19 November 2025
House introduced	Legislative Council
Member with carriage	The Hon John Ruddick MLC
	*Private member's bill

### Purpose and description

- 12.1 The object of the Bill is to repeal the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*.

### Background

- 12.2 The Bill proposes to lift the existing ban on nuclear energy in New South Wales by repealing the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986* and making consequential amendments to the *Mining Act 1992* and the *Land and Environment Court Act 1979*.
- 12.3 In his second reading speech, the Hon John Ruddick MLC criticised the state-wide ban on nuclear energy and referred to a 2019 inquiry into a similar bill by the Legislative Council Standing Committee on State Development, which, he suggested, found that 'it was a no-brainer to remove the ban.'
- 12.4 In explaining why safety concerns around nuclear power are now 'obsolete', Mr Ruddick stated:
- The world now has over 70 years of operational evidence from more than 450 reactors, with continual improvements in design, output and safety. Safety concerns may have been reasonable decades ago, but this argument is now outdated and redundant.
- 12.5 Mr Ruddick further noted that the Bill would not require the Government to build or operate nuclear power plants. Instead, it would allow 'private operators to have the option to provide nuclear power if they believe it makes financial sense.'

### 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*.**

## 13. Water Management Amendment (Easements for Inundation) Bill 2025

Date introduced	20 November 2025
House introduced	Legislative Council
Member with carriage	The Hon Rose Jackson MLC

### Purpose and description

- 13.1 The object of the Bill is to amend the *Water Management Act 2000* (the **Act**) to make provision for:
- (a) easements relating to inundation for environmental purposes to be held by WaterNSW or other persons under the Act
  - (b) easements relating to inundation for environmental purposes held by the Ministerial Corporation under the *Conveyancing Act 1919* to be transferred to WaterNSW.

### Background

- 13.2 The Bill proposes to amend the Act to provide for the creation and transfer of easements in favour of WaterNSW, or a water authority prescribed by regulations, in relation to the inundation of land for environmental purposes.

- 13.3 In her second reading speech, the Hon Rose Jackson MLC, Minister for Water, explained:

Under the Conveyancing Act, WaterNSW may only hold easements in gross for the purpose of, or incidental to, the supply of a water utility service to the public, such as the supply of water, drainage or sewerage services. This bill allows WaterNSW to be the beneficiary of easements that are created to permit inundation for environmental purposes for programs such as the Reconnecting River Country Program and the Gwydir Reconnecting Watercourse Country Program.

- 13.4 The Minister stated that the '... Bill is essential to the successful delivery of both programs and to further constraints relaxation projects across the State'.

### Issues considered by the Committee

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

##### *Commencement by proclamation*

- 13.5 Clause 2 of the Bill provides that it would commence 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. As the Bill may impact the property rights of individual landholders, the Committee refers this to issue to Parliament for further consideration.**

## 14. Work Health and Safety (Digital Work Systems) Bill 2025

Date introduced	19 November 2025
House introduced	Legislative Assembly
Member with carriage	The Hon Sophie Cotsis MP

### Purpose and description

- 14.1 The object of the Bill is to amend the *Work Health and Safety Act 2011* (**the Act**) to make it a primary duty of care for a person conducting a business or undertaking to ensure that the health and safety of workers is not put at risk from the use of a digital work system.

### Background

- 14.2 The Bill seeks to create legally enforceable duties for employers who implement digital work systems. This includes a primary duty of care to their employees' health and safety, and a duty to facilitate work health and safety (**WHS**) entry permit holders' access to and inspection of relevant digital work systems.
- 14.3 In her second reading speech, the Hon Sophie Cotsis MP, Minister for Work Health and Safety, stated:

Previous State and Federal parliamentary inquiries have found that there is a need for work health and safety reforms to address worker intensification, unfair or unsafe allocation of work, and the psychosocial risks associated with automated decision-making and the use of artificial intelligence.

### Issues considered by the Committee

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

##### *Commencement by proclamation*

- 14.4 Clause 2 of the Bill provides that the Act would commence on a day or days to be appointed by proclamation.
- 14.5 The Minister stated that the Bill would commence by proclamation to '... ensure that a robust engagement, communication and education campaign is in place to support (employers) and key stakeholders to prepare for these changes.'

**The Bill commences 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 a flexible starting date could allow time for the rollout of stakeholder education and awareness**

**campaigns, which may ultimately facilitate the smooth implementation of the Bill's provisions. In the circumstances, the Committee makes no further comment.**

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

*Lack of clarity – meaning of 'excessive or unreasonable'*

- 14.6 Proposed section 21A(1) would require employers to ensure, as far as reasonably practicable, that the health and safety of a worker is not put at risk from the allocation of work by a digital work system used by the business.
- 14.7 Employers must also consider whether the business' digital work systems result in 'excessive or unreasonable' workloads, performance metrics and surveillance of workers (s 21A(2)).
- 14.8 Under the current Act (at sections 31 – 33), an individual employer that breaches a duty is guilty of an offence with penalties ranging from a \$149,698.34 fine (1,214 penalty units) to a \$2,318,844.55 fine (18,805 penalty units), or 10 years imprisonment.

**Proposed section 21A(1) imposes a duty on employers to ensure that their digital work systems do not result in 'excessive or unreasonable' workloads, performance metrics or surveillance of workers. While the Bill does not introduce new offences, breaches of a primary duty under the *Work Health and Safety Act 2011* engage the existing offence framework, under which significant penalties apply.**

**The Committee notes that penalties under the Act range from a \$149,698.34 fine (1,214 penalty units) to a \$2,318,844.55 fine (18,805 penalty units), or 10 years imprisonment. However, the terms 'excessive' and 'unreasonable' are not defined in the Bill or the Act, and there is no further statutory guidance clarifying how those concepts are to be applied in practice.**

**In the absence of such guidance, employers and workers may face uncertainty in understanding the scope of the duty and the conduct required to comply with it, particularly given the seriousness of the potential penalties. While the Committee acknowledges that the Bill is intended to commence by proclamation to allow time for the Government to educate and engage with key stakeholders, it considers that greater legislative clarity may still be warranted. For this reason, the Committee refers the issue to Parliament for consideration.**

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

*Incorporating significant matters into external guidelines not subject to disallowance*

- 14.9 The Bill would amend section 118 of the Act to permit WHS entry permit holders to access and inspect a workplace's digital work systems when investigating suspected contraventions of the Act.

- 14.10 The access and inspection power would be subject to guidelines issued by the regulator, SafeWork NSW, under section 118A. While the regulator is required to publish these guidelines, the Bill does not specify when the guidelines must be issued or require them to be tabled in Parliament.
- 14.11 The Act imposes penalties on WHS entry permit holders and employers that contravene obligations relating to inspection and access to workplaces. Maximum penalties range from a \$14,920.51 fine (121 penalty units) for an individual employer, to a \$29,964.33 fine (243 penalty units) for WHS entry permit holders.
- 14.12 The Minister stated that the guidelines would '... (ensure) entry permit holders and businesses have a shared understanding of obligations, and the consistent, responsible application of this new provision.'

**The Bill would allow WHS entry permit holders to access and inspect an employer's digital work systems when investigating a suspected contravention of the Act (section 118(1)(a)). The exercise of this power would be subject to guidelines that the regulator, SafeWork NSW, is required to publish under proposed section 118A. The Bill does not specify when or how often the regulator must publish the guidelines.**

**The Committee notes that the Act imposes significant penalties for breaching access and inspection obligations, with maximum penalties ranging from a \$14,920.51 fine (121 penalty units) for individual employers, to a \$29,964.33 fine (243 penalty units) for WHS entry permit holders. The content of the guidelines would therefore play a significant role in shaping how statutory powers are exercised and how obligations are understood.**

**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 is no requirement for the guidelines to be tabled in Parliament. As such, significant matters affecting the exercise of statutory powers and the imposition of penalties would be determined by external material that is not subject to parliamentary scrutiny.**

**The Committee generally prefers that substantive matters are set out in legislation where they can be subjected to appropriate parliamentary scrutiny, particularly where these matters affect individual rights and liberties. For this reason, the Committee refers the issue 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. [Assisted Reproductive Technology Amendment \(Donated Gametes\) Regulation 2025](#)

The objects of the Regulation are:

- (a) to provide certain temporary exemptions from the requirement that assisted reproductive technology treatment (**ART treatment**) using a donated gamete not occur if the treatment is likely to result in offspring of the donor being born, whether or not as a result of ART treatment, to more than 5 women
- (b) to require ART providers to keep records of the steps taken to ensure compliance with this requirement.

The Regulation is made under the *Assisted Reproductive Technology Act 2007*, including subsections 27(1A)(b) and 31(1)(e). It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

## 2. [Environmental Planning and Assessment Amendment \(Planning Proposal Authority\) Regulation 2025](#)

The object of the Regulation is to prescribe the Deputy Secretary of the Department as a planning proposal authority under the *Environmental Planning and Assessment Act 1979*, section 3.32(1)(b).

The Regulation is made under the *Environmental Planning and Assessment Act 1979* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

## 3. [Rail Safety \(Adoption of National Law\) Amendment Regulation 2025](#)

The objects of the Regulation are as follows:

- (a) to provide that oral fluid samples may be analysed for drug testing at the laboratory at Douglass Hanly Moir Pathology at 14 Giffnock Avenue, Macquarie Park
- (b) to include certain devices as approved oral fluid analysing instruments and approved oral fluid testing devices for drug testing
- (c) to update references to a standard about drug testing of urine samples.

The Regulation is made under the *Rail Safety (Adoption of National Law) Act 2012*, including sections 8 and 10, 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*.

## 4. [Strata Schemes Legislation Amendment \(Commencement\) Regulation 2025](#)

The object of the Regulation is to correct a commencement provision.

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*.

5. [Civil Procedure Act 2005 and Industrial Relations Act 1996 – Practice Note No. 35](#)

The Practice Note applies to applications for a sexual harassment order made under section 144P of the *Industrial Relations Act 1996* (the **Act**). It does not apply to an application for civil penalties for a contravention of a sexual harassment order nor an application for civil penalties for a contravention of the prohibition on sexual harassment in connection with work.

The Practice Note is issued pursuant to section 185A of the Act 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*.

6. [Civil Procedure Act 2005 and Industrial Relations Act 1996 – Practice Note No. 34](#)

The Practice Note applies to stop bullying applications made under section 144D of the *Industrial Relations Act 1996* (the **Act**). The Practice Note does not apply to an application for civil penalties for a contravention of a stop bullying order.

The Practice Note is issued pursuant to section 185A of the Act 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*.

7. [Industrial Relations Act 1996 – Industrial Court Criminal Practice Note No. 1](#)

The object of the Practice Note is to explain the administrative and case management procedures followed in the Industrial Court of NSW for Work Health and Safety prosecutions. It applies to all criminal proceedings commenced in the Court pursuant to section 229B(1)(b) the *Work Health and Safety Act 2011*.

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

8. [Fair Trading Amendment \(Penalty Notice Publications\) Regulation 2025](#)

The object of the Regulation is to allow the Commissioner for Fair Trading or, if there is no person employed as Commissioner for Fair Trading, the Secretary of the Department of Customer Service, to publish information about penalty notices issued to licence holders or traders under the *Fair Trading Act 1987* or any other legislation administered by the Minister.

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

9. [Biosecurity Amendment \(Miscellaneous\) Regulation 2025](#)

The object of the Regulation is to amend:

- (a) the *Biosecurity Act 2015* to update the lists of biosecurity matter that is prohibited matter throughout the State or part of the State
- (b) the Biosecurity Regulation 2017 to:
  - (i) establish the Chinese violet biosecurity zone
  - (ii) amend the requirement as to hives
  - (iii) insert pests and a disease to the list of pests and diseases requiring notification.

The Regulation is made under the *Biosecurity Act 2015*, including sections 24(1), 27(4), 79–83, 165(1)(a), 404, the general regulation-making power, and Schedule 5, clause 1. It does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 10. [Electricity Supply \(General\) Amendment \(Peak Demand Reduction Targets\) Regulation 2025](#)

The object of the Regulation is to amend the Electricity Supply (General) Regulation 2014 to reduce the peak demand reduction target for the 2026–2027 compliance period of 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*.

#### 11. [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Amendment \(Building Sustainability Index Certificates\) Regulation 2025](#)

The object of the Regulation is to amend the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 to provide that a BASIX certificate may be amended by the Planning Secretary or an approved BASIX system, and that an amended BASIX certificate may contain a statement to the effect that the development to which it relates will achieve the standards that applied to the development when the original BASIX certificate was issued.

The Regulation is made under the *Environmental Planning and Assessment Act 1979* and does not appear to engage with the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 12. [Passenger Transport \(General\) Amendment \(Converted E-bike Batteries\) Regulation 2025](#)

The object of the Regulation is to prohibit a person from bringing a lithium battery for a pedal bicycle that has been modified to be an e-bike (a **converted e-bike**):

- (a) onto certain rail services
- (b) into parts of the restricted area of a station.

The prohibition applies whether or not the battery is attached to a converted e-bike and is subject to an exception for certain persons with disabilities.

The Regulation is made under the *Passenger Transport 1990* 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. 41

TIME & DATE: 3:02PM, 2 FEBRUARY 2026

LOCATION: ROOM 1136 AND VIA  
VIDEOCONFERENCE

### MEMBERS PRESENT

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

### APOLOGIES

Ms Munro and Ms Stuart (**Deputy Chair**).

### OFFICERS PRESENT

Rohan Tyler, Carly McKenna, Alex Read, Natasha Moir, 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 17 November 2025 be confirmed.

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

#### 3. Consideration of bills with comment for Legislation Review Digest 40/58

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

- a) Children (Criminal Proceedings) and Young Offenders Legislation Amendment Bill 2025
- b) Crimes and Summary Offences Amendment Bill 2025
- c) Forestry Amendment (Bungabbee State Forest Revocation) Bill 2025
- d) Future Jobs and Investment Bill 2025
- e) Law Enforcement (Powers and Responsibilities) Amendment (Places of Worship) Bill 2025
- f) Motor Accident Injuries Amendment (Claim Farming Practices Prohibition) Bill 2025
- g) Terrorism and Other Legislation Amendment Bill 2025
- h) Water Management Amendment (Easements for Inundation) Bill 2025
- i) Work Health and Safety (Digital Work Systems) Bill 2025

**4. Consideration of bills without comment for Legislation Review Digest 40/58**

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

- a) Environmental Planning and Assessment Amendment (Bushfire Protection) Bill 2025
- b) Road Transport Amendment (Medicinal Cannabis) Bill 2025
- c) Strata Schemes Legislation Amendment (Miscellaneous) Bill 2025
- d) Summary Offences Amendment (Police Memorial Offences) Bill 2025
- e) Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2025

**5. Regulations without comment for Legislation Review Digest 40/58**

Resolved, on the motion of Mr Layzell: That the Committee adopts the regulations without comment as Part Two to Digest No. 40/58.

**6. Legislation Review Digest 40/58**

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 the Legislation Review Digest No. 40/58 and that it be signed by the Chair and presented to the House.

**7. Regulations to be reviewed**

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

**8. Next Meeting**

The meeting adjourned at 3:05pm until Monday 9 February 2026.