

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. Crimes Legislation Amendment (Hate Crimes) Bill 2026

Issue identified	Conclusion of Committee
Procedural fairness - right to trial by jury	Referred

2. Crimes Amendment (Prohibited Organisation Symbols) Bill 2026

Issue identified	Conclusion of Committee
Freedom of expression - display of prohibited organisation symbols	Referred
Reversal of the onus of proof	Referred
Procedural fairness - right to trial by jury	Referred
Inconsistency with other laws	Referred
Wide and insufficiently defined police powers	Referred

3. Crown Land Management Amendment (Statutory Review) Bill 2026

Issue identified	Conclusion of Committee
Procedural fairness - Aboriginal land claims	Referred
Inconsistency with other laws	Referred
Retrospectivity	No further comment
Henry VIII provisions	Referred
Wide regulation-making powers	Referred
Commencement by proclamation	No further comment

4. Education Amendment (School Community Safety) Bill 2026

Issue identified	Conclusion of Committee
Incorporation of external guidelines not subject to disallowance	Referred
Commencement by proclamation	No further comment

5. Electoral Legislation Amendment (Elections) Bill 2026

Issue identified	Conclusion of Committee
Strict liability offence	No further comment
Commencement by proclamation	No further comment

6. Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment

7. Road Legislation Amendment (E-Bike Regulation) Bill 2026*

Issue identified	Conclusion of Committee
No issues identified	

8. Water NSW Amendment (Warragamba Dam) Bill 2026*

Issue identified	Conclusion of Committee
Broad discretionary power without oversight	Referred

PART TWO – REGULATIONS WITH COMMENT**1. Crimes (Administration of Sentences) Amendment (Exempt Persons) Regulation 2026**

Issue identified	Conclusion of Committee
Lack of clarity potentially impacting procedural fairness and access to justice	Referred

2. Major Events Amendment (Israeli Presidential Visit) Regulation 2026

Issue identified	Conclusion of Committee
Declaration inconsistent with intent of Major Events Act – impact on protest activity	Referred

3. Surveillance Devices Amendment (ICAC) Regulation 2026

Issue identified	Conclusion of Committee
Right to privacy	Referred
Procedural fairness	Referred
Timing and retrospectivity	Referred

Summary of Conclusions

PART ONE – BILLS

1. Crimes Legislation Amendment (Hate Crimes) Bill 2026

Procedural fairness - right to trial by jury

The Bill would make it an offence to procure victims by making false or misleading representations with the intent to commit a serious assault or robbery offence, under proposed section 54BA of the *Crimes Act 1900*. It would also amend the *Criminal Procedure Act 1986* to classify the proposed offence under section 54BA as an indictable offence that must be tried summarily, unless the prosecutor elects to have the offence dealt with on indictment. This would 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 5 years' imprisonment may be denied procedural protections associated with indictable proceedings, including the possibility of a trial by jury.

The Committee acknowledges that the amendment may be intended to promote the efficient and expeditious determination of criminal matters. However, by preventing an accused person from electing to have their matter heard by a jury, this may unduly impact on their right to procedural fairness. For this reason, the Committee refers the issue to Parliament for consideration.

2. Crimes Amendment (Prohibited Organisation Symbols) Bill 2026

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

Freedom of expression – display of prohibited organisation symbols

The Bill would broaden the existing offence under section 93ZB of the *Crimes Act 1900* by extending the prohibition on the display of symbols from a 'prohibited terrorist organisation' to a 'prohibited organisation', which is a lower threshold. The term 'prohibited organisation' would align with definitions recently introduced under section 80.2E of the *Criminal Code Act 1995* (Cth) (the Commonwealth Criminal Code). The Commonwealth Criminal Code enables a terrorist organisation or prohibited hate group to be prescribed in a broad range of circumstances. Further, a group may be listed as a 'prohibited hate group' under section 114A.4 of Commonwealth Criminal Code if the Governor-General is satisfied that the group has engaged in, or is likely to engage in, conduct constituting a hate crime. This means that the proposed amendments may capture a significantly broader range of organisations and symbols.

The Committee previously reported on the Terrorism and Other Legislation Amendment Bill 2025 in Digest No. 40/58, which established the existing offence of displaying a prohibited terrorist organisation symbol. Consistent with those comments, the Committee notes that the Bill places restrictions on freedom of expression. The Committee generally comments where legislation limits a person's right to expression, as it is a core right protected under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). However, it also recognises that lawful restrictions may be permitted in the interests of national security, public safety, or the rights and freedoms of others. In that case, the Committee recognised that the Bill was intended to prevent the promotion and incitement of hate crimes through terrorist symbols, particularly in the context of the terrorist attack at Bondi Beach.

In this case, the Committee acknowledges that the Bill may be intended to address the broader harms associated with symbols that may incite fear, violence or hatred. The Committee also understands that the amendments are intended to align NSW and Commonwealth legislation. However, the significantly lower threshold and the expanded definition of 'prohibited organisation symbol' may capture an unduly broad range of expressive conduct. This may limit a person's ability to express views, including political or ideological views, through the display of symbols. For these reasons, the Committee refers the issue to Parliament for consideration.

Reversal of the onus of proof

The Bill would create a new offence under proposed section 93ZB(2D) of the *Crimes Act 1900* where a person, without reasonable excuse, fails to comply with a police officer's direction to remove a prohibited organisation symbol from display, under proposed section 93ZB(2B). The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both.

The Committee notes that the inclusion of a 'without reasonable excuse' defence may operate to reverse the onus of proof, by requiring the defendant to adduce or point to evidence establishing that a reasonable excuse exists. This has the effect of shifting part of the evidential burden onto the accused in order to avoid criminal liability. The Committee notes that this may impact on the presumption of innocence, as recognised in Article 14 of the International Covenant on Civil and Political Rights. The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to the law.

The Committee recognises that the prosecution retains the burden of proving the elements of the offence, including that a direction was given and that the person failed to comply with it. It also acknowledges that the presumption of innocence is not absolute, and that provisions imposing an evidential burden on a defendant are not uncommon in criminal law.

However, in this case, the offence under section 93ZB(2D) would carry a potential custodial penalty and, to avoid this penalty, the accused would bear the onus of having to prove that they had a reasonable excuse. For these reasons, the Committee refers the issue to Parliament for consideration.

Procedural fairness - right to trial by jury

The Bill would amend the *Criminal Procedure Act 1986* to classify the offence under section 93ZB(1) of the *Crimes Act 1900* as an indictable offence that must be tried summarily, unless the prosecutor elects to have the offence dealt with on indictment. This amendment would 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 acknowledges that the amendment may be intended to promote the efficient and expeditious determination of criminal matters and to facilitate timely police investigations. However, by preventing an accused person from electing to have their matter heard by a jury, this may unduly impact on their right to procedural fairness. For this reason, the Committee refers the issue to Parliament for consideration.

Inconsistency with other laws

The Bill proposes to insert section 93ZB(2A) into the *Crimes Act 1900*, which states that the maximum penalty for an offence dealt with summarily, under section 93ZB(1), applies regardless of section 268 of the *Criminal Procedure Act 1986*. Section 268(2)(h) currently limits the maximum fine for indictable offences dealt with summarily, under section 93ZB(1), to a \$5,500 fine (50

penalty units). However, proposed section 93ZB(2A) would override this limitation by allowing courts to impose higher maximum penalties. The maximum penalty for an offence under section 93ZB would be a \$22,000 fine (200 penalty units) or imprisonment for 2 years, or both, for an individual, or a \$110,000 fine (1,000 penalty units) for a corporation. The Committee generally comments on provisions that operate contrary to other laws, as this may make it difficult for individuals to understand the law that applies to them at any given time.

The Committee acknowledges that the policy objective of the Bill is to respond and address antisemitic incidents that have recently occurred in NSW. However, in this case, the inconsistency may impact on individual rights and liberties, noting that an individual may be liable for a custodial penalty. For these reasons, the Committee refers the issue to Parliament for 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 police powers

The Bill would insert section 93ZB(2B) into the *Crimes Act 1900*, which would allow police to direct a person to remove a symbol from display, where the officer 'reasonably suspects' that it is a prohibited organisation symbol. The new provisions would also create an offence for failure to comply with the direction. The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both. These powers would operate outside the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

The Committee acknowledges that the Bill is intended to address harms associated with the public display of certain symbols that may incite fear, hatred or violence. The Committee also recognises that the provisions are intended to enable police officers to act quickly while an investigation into a suspected offence is in progress.

However, the Committee notes that the combination of a broad threshold of 'reasonable suspicion', and the creation of an offence for non-compliance, may result in a wide discretionary power being conferred on police officers. The use of this power is also linked to the expanded definition of a 'prohibited organisation', as mentioned above, which would further expand its scope. Additionally, the Committee notes that non-compliance with a direction may attract a custodial penalty. For these reasons, the Committee refers the issue to Parliament for consideration.

3. Crown Land Management Amendment (Statutory Review) Bill 2026

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

Procedural fairness - Aboriginal land claims

The Bill would insert section 5.20B(4) into the *Crown Land Management Act 2016*, which states that 'the granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act'. This provision would effectively extinguish Aboriginal Land Council claims under the *Aboriginal Land Rights Act 1983*, where that land is subject to a lease. In doing so, it would also override the recent decision of the High Court of Australia in *La Perouse Local Aboriginal Land Council v Quarry Street Pty Ltd* [2025] HCA 23, which held that land must be actually used, and not just held under lease, to exclude Crown land from Aboriginal land claims.

The *Aboriginal Land Rights Act 1983* is the legislative foundation upon which land is returned to Aboriginal communities to enable economic, social and cultural outcomes. The Committee notes that the Bill would therefore undermine Aboriginal peoples' right to the lands, territories and

resources that they have traditionally owned, occupied or otherwise used. These rights are codified at Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples, which Australia has endorsed.

Additionally, proposed section 3.28(1) would allow a Crown land manager to grant leases subject to regulations. If a Crown land manager has invalidly granted a lease under section 3.28(1), the Minister could retrospectively validate that lease under proposed section 3.29. These provisions would introduce broad retrospective powers to validate unlawful tenures and, therefore, extinguish Aboriginal land claims without any stated policy rationale. This would further impact on procedural fairness for Aboriginal Land Councils in making claims for unused Crown Land. For these reasons, the Committee refers the issue to Parliament for consideration.

Inconsistency with other laws

The Bill would insert Division 3.6B – Native Title into the *Crown Land Management Act 2016*. Proposed section 3.41A would apply this division '... despite anything in the *Local Government Act 1993*.' The Committee generally comments on provisions that operate contrary to other laws, particularly where they impact individual rights and liberties, as this may make it difficult for individuals to understand the law that applies to them at any given time.

While the Committee acknowledges that this contrary operation may be intended to provide a clear and consistent legislative framework for Crown land management, the proposed amendment could be more effectively achieved through changes to the *Local Government Act 1993*, which would maintain the consistency of the statute book. For this reason, the Committee refers the matter to Parliament for consideration.

Retrospectivity

Schedule 1, item 132 of the Bill would insert savings and transitional provisions into the *Crown Land Management Act 2016*, which would retrospectively apply proposed Division 4.5 and sections 5.66 and 9.6A to dealings on Crown land prior to the commencement of the Bill. These provisions would allow the Minister to resume land vested in local councils and government agencies before the commencement of the relevant provisions, and to recover costs for activities that occurred before the commencement of that section.

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time.

However, the Committee acknowledges that this retrospective application may be intended to provide a clear and consistent legislative framework for the management of Crown land. The Committee also notes that the proposed amendments would not impact on individuals. For these reasons, the Committee makes no further comment.

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

Henry VIII provisions

The Bill proposes to insert sections 3.2A, 3.21 and 1.15 into the *Crown Land Management Act 2016*. Each section allows regulations to be made that could substantively change the application of existing legislation. Each section may therefore amount to a Henry VIII provision, or operate similarly to a Henry VIII provision, by allowing the Executive to alter or amend the operation of an existing Act by way of regulation. The Committee generally considers Henry VIII clauses in bills to

be an inappropriate delegation of legislative powers, as regulations do not receive the same level of parliamentary scrutiny as primary legislation.

Additionally, proposed section 1.15 would allow regulations to apply certain parts of the Act to Crown land that is managed under any other Act, despite any inconsistencies. Provisions that apply contrary to other laws may make it difficult for individuals to understand the law that applies to them at any given time. For this reason, the Committee refers the matter to Parliament for consideration.

Wide regulation-making powers

The Bill amends the *Crown Land Management Act 2016* to create broad regulation-making powers, including the power to determine the matters that the Minister must consider when altering the purpose for which Crown land is dedicated and reserved, or when selling or disposing of Crown land in the Western Division.

The Committee generally prefers substantive matters to be set out in legislation rather than regulations to ensure an appropriate level of parliamentary oversight. The Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. The Committee also recognises that these kinds of regulation-making powers may allow for more flexible regulatory responses. However, in this instance the regulation-making powers relate to key substantive matters that are central to the Bill. For this reason, the Committee refers the matter to Parliament for consideration.

Commencement by proclamation

The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons, particularly if the legislation impacts individual rights and liberties. 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 would facilitate greater flexibility in the implementation of this complex regulatory framework. It would also allow sufficient time for implementation planning, including communication to stakeholders about the proposed changes. For these reasons, the Committee makes no further comment.

4. Education Amendment (School Community Safety) Bill 2026

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

Incorporation of external guidelines not subject to disallowance

The Bill proposes to insert section 26ZO into the *Education Act 1990* to provide for the making of Ministerial guidelines. The main object of the guidelines is to advise an appropriate person of certain circumstances and actions related to school safety orders. Under section 26ZO(3), the guidelines must be considered when deciding whether to make an immediate order under section 26S or an ongoing order under section 26V. An immediate order would allow an appropriate person to direct a relevant adult to take a particular action, where their behaviour is unreasonable. The guidelines also set out key matters, including the relevant notice periods and timeframes for the completion of internal reviews.

There does not appear to be any requirement for the document to be tabled in Parliament. This document, and any revisions to it, are therefore not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in primary legislation or regulations where they can be subjected to parliamentary scrutiny, particularly where they affect individual rights and liberties.

The Committee understands that the Ministerial guidelines may provide greater flexibility, as they can be updated to reflect changing circumstances. However, the matters to be included in the guidelines are substantive matters that inform the framework for making school safety orders. The Committee also notes that the power to make a school safety order against an individual is a significant power that may impact on that individual's personal rights and liberties. For these reasons, the Committee refers the matter to Parliament for consideration.

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

Commencement by proclamation

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

However, the Committee acknowledges that a flexible start date may be necessary to develop the administrative framework for the making of school safety orders. In the circumstances, the Committee makes no further comment.

5. Electoral Legislation Amendment (Elections) Bill 2026

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

Strict liability offence

The Bill seeks to amend the existing offence of 'failing to vote', under section 207 of the *Electoral Act 2017*, by removing a defence that is currently available. Proposed subsection 207(2A) provides that it is not a defence under section 207 if a person did not know an election was being conducted. By removing this defence, the Bill would make the existing offence a strict liability offence.

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

However, the Committee acknowledges that strict liability offences are not uncommon in regulatory frameworks to encourage compliance. Additionally, the Committee notes that the offence would carry a monetary penalty rather than a custodial penalty. For these reasons, the Committee makes no further comment.

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

Commencement by proclamation

Section 3(1) and Schedule 2, items 30, 31 and 44 of the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual

rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges that there may be practical reasons for allowing a flexible start date. In this case, the reasons include waiting for a certain working group's recommendations to be implemented, and allowing time for relevant agencies to establish the necessary administrative procedures to implement the Bill's provisions. The Committee also notes that the relevant provisions would not directly impact individual rights and liberties. For these reasons, the Committee makes no further comment.

6. Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026

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

Commencement by proclamation

A number of proposed amendments to the *Property and Stock Agents Act 2002* would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date. In this case, a flexible start date would provide time for relevant agencies, such as Fair Trading, to establish administrative procedures necessary to implement the Bill's provisions. For this reason, the Committee makes no further comment.

7. Road Legislation Amendment (E-Bike Regulation) Bill 2026*

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

8. Water NSW Amendment (Warragamba Dam) Bill 2026*

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

Broad discretionary power without oversight

The Bill would insert proposed section 116 into the *Water NSW Act 2014* to allow Water NSW to operate the Warragamba Dam, '... despite any term or condition of an operating licence ...', for the purposes of facilitating downstream flood mitigation.

This provision confers a broad discretionary power on Water NSW to effectively override the Independent Pricing and Regulatory Authority's licence restrictions, without prescribing any limitations or safeguards to govern the exercise of that power. There also does not appear to be any requirement for the giving of reasons, or any avenues for challenging the exercise of those powers. The Committee notes that this may, therefore, potentially impact downstream landowners. For these reasons, the Committee refers the issue to Parliament for consideration.

PART TWO – REGULATIONS WITH COMMENT

1. Crimes (Administration of Sentences) Amendment (Exempt Persons) Regulation 2026

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

Lack of clarity potentially impacting procedural fairness and access to justice

The Regulation amends the definition of 'exempt person' in the Crimes (Administration of Sentences) Regulation 2014 to provide that a legal practitioner is only an exempt person in relation to an inmate if the practitioner represents the inmate, including by providing legal advice to the inmate, or is 'in the process of becoming' the inmate's legal representative.

The amendment narrows the number of legal practitioners who may be captured by provisions applying to exempt persons, including clause 113 of the Crimes (Administration of Sentences) Regulation 2014, which allows for confidential communication between an 'exempt person' and an intimate under the principal of privileged correspondence.

By narrowing the category of legal practitioners deemed to be an 'exempt person', the Regulation may limit an unrepresented inmate's capacity to obtain legal advice. The right of an inmate to access legal advice or representation is fundamental to their right to a fair hearing, and to access to justice more broadly.

The Committee also notes that the words 'in the process of becoming' in clause 3(1)(c)(ii) are not sufficiently defined, and set no threshold against which a relationship between an inmate and a legal practitioner may be assessed. The absence of any guidance as to when this process is taken to have commenced, or who determines it, may place Corrective Services officers in a position of uncertainty, with the risk of the definition being applied inconsistently.

The Committee notes that a notice of motion to disallow the Regulation was given in the Legislative Council on 10 February 2026. The motion was agreed to and the Regulation was disallowed on 19 March 2026, prior to the tabling of this Digest and, therefore, before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for consideration.

2. Major Events Amendment (Israeli Presidential Visit) Regulation 2026

May not accord with the spirit of the legislation under which it was made, even though it may have been legally made: s 9(1)(b)(iv) of the LRA

Declaration inconsistent with intent of Major Events Act – impact on protest activity

The Regulation amends the *Major Events Regulation 2025* to declare the Israeli Presidential Visit to Australia as a major event under the *Major Events Act 2009* (the Act). The event is defined as 'the Australian Government's Guest of Government visit of Israeli President, Isaac Herzog, and other Israeli dignitaries, in the aftermath of the 14 December 2025 Bondi terrorist attack', from 9 February to 12 February 2026. During this time, the declaration granted police additional powers in relation to crowd management, under Division 5 of the Act.

Section 5(6) of the Act states that the regulations may not declare an industrial or political demonstration or protest to be a major event. However, the operative effect of the declaration was to suppress a planned protest against the Israeli Presidential Visit on 9 February 2026, and to give

police additional powers in relation to the protest. The Committee is of the view that the declaration of the Israeli Presidential Visit as a major event is therefore inconsistent with the spirit of the Act, despite being lawfully made.

The Committee acknowledges that the major event declaration was only effective from 9 February 2026 to 12 February 2026, and that disallowance of the Regulation would have no practical effect at this stage. It also understands that a disallowance motion was negated in the Legislative Council on 12 February 2026. However, noting the significant impact of the amendments, the Committee refers the matter to Parliament for consideration.

3. Surveillance Devices Amendment (ICAC) Regulation 2026

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

Right to privacy

The Regulation extends the repeal of section 6A of the Surveillance Devices Regulation 2022 by an additional 6 months. This provision exempts the Independent Commission Against Corruption (ICAC) and its officers from contravening provisions of Part 2 of the *Surveillance Devices Act 2007*.

This exemption has the potential to impact an individual's right to privacy, as it permits the ICAC to lawfully use certain material obtained illegally by a third party through the use of a surveillance device without consent or a warrant in certain circumstances. For example, the ICAC would be permitted to publish or communicate a recorded private conversation.

The Committee acknowledges that section 6A is not intended to exempt the ICAC from the requirement to apply for a surveillance device warrant in its investigations. It also recognises that the exemption is time-bound, as it will now expire on 31 December 2026. Additionally, the Committee understands that the exemption inserted under the Surveillance Devices Amendment (ICAC) Regulation 2023 was, at the time, associated with an ongoing investigation of the ICAC. However, it is unclear if this investigation remains ongoing. As the Committee noted in Legislation Review Digest No. 3/58, section 6A is not worded in a way which limits its application to any particular investigation.

The Committee therefore notes that the exemption under section 6A would allow the ICAC to use information that a third party has obtained without a requisite warrant or consent. It also notes the absence of any safeguards to limit or allow a challenge or review of its application. The use of surveillance devices without a warrant can impact on an individual's right to privacy without the requirement for judicial oversight. For these reasons, the Committee refers the matter to Parliament for consideration.

Procedural fairness

The Regulation extends the repeal of section 6A by a further 6 months. This provision allows the ICAC to use evidence obtained from a third party with the use of a surveillance device, which would otherwise be unlawful under Part 2 of the *Surveillance Devices Act 2007*. The Committee is concerned that in using such evidence, it may lead to the prosecution of individuals on the basis of unlawfully obtained evidence. Normally, evidence that has been unlawfully obtained would be inadmissible under the rules of evidence.

The Committee also notes that it is unclear whether the Director of Public Prosecutions can provide directions under the ICAC's wide powers of investigation. Therefore, the Committee is

concerned about the potential impact of the Regulation on individuals' right to procedural fairness. For these reasons, the Committee refers the matter to Parliament for consideration.

Form or intention calls for elucidation: s 9(1)(b)(vii) of the LRA

Timing and retrospectivity

Under section 59(3) of the *Surveillance Devices Act 2007*, the Regulation takes effect from the expiry of the period in which either House of Parliament may disallow it. Members of Parliament have until 2 June 2026 (including reserve sitting days) in the Legislative Assembly and 23 June 2026 in the Legislative Council to give notice of a motion to disallow the Regulation. If notice is given during this time, the Regulation will remain disallowable until the notice is dealt with.

However, clause 2 of the Regulation states that it commences 'on the day on which it is published on the NSW legislation website', which was 13 March 2026. The Committee notes that this conflicts with section 59(3) of the Act. As such, it is not clear when the extension of the exemption would take effect. For these reasons, the Committee refers the matter to Parliament for further clarity on the timing and applicability of the Regulation.

Part One – Bills

1. Crimes Legislation Amendment (Hate Crimes) Bill 2026

Date introduced	17 March 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

Purpose and description

- 1.1 The object of the Bill is to amend the *Crimes Act 1900* in relation to hate crimes.

Background

- 1.2 The Bill proposes to amend multiple Acts prohibiting violent offences committed against persons with particular attributes, including gender and sexuality, by creating new offences and increasing the sentences for existing offences.

- 1.3 During his second reading speech, the Hon Michael Daley MP, Attorney General, said:

This bill represents a decisive and targeted response to the concerning hate-motivated attacks we have witnessed in our State. It strengthens existing laws, introduces new offences to address specific offending behaviours, and strengthens the ability of sentencing courts to recognise and respond to offending that involves elements of hatred or prejudice.

- 1.4 The Bill proposes to amend the *Crimes Act 1900* to:
- make it an offence for a person to procure or attempt to procure a person by making a false or misleading representation with the intent to commit a serious assault or robbery. The offence under proposed section 54BA carries a maximum penalty of 5 years' imprisonment.
 - increase the maximum penalty for the offence of publicly threatening or inciting violence on grounds of race, religion, sexual orientation, gender identity or intersex or HIV/AIDS status.
 - introduce an aggravated form of the offence in section 93Z, where a person incites violence against a person with particular attributes and the conduct results in actual violence against that person. The offence carries a maximum penalty of 7 years' imprisonment and/or a \$44,000 fine (400 penalty units).
 - expand the existing performance offence in section 154K to also capture offences of serious assault or robbery and disseminating material regarding those offences.
- 1.5 The Bill also seeks to amend the *Criminal Procedure Act 1986* to add the proposed offence under section 54BA to Schedule 1, Table 2.

- 1.6 Further, the Bill proposes to amend the *Crimes (Sentencing Procedure) Act 1999* to provide that an offence is taken to be motivated by hatred or prejudice, if at the time of committing, or immediately before or after, the offender demonstrated or expressed hatred or prejudice against a group of people to which the offender believed the victim belonged.

Issues considered by the Committee

Procedural fairness - right to trial by jury

- 1.7 The Bill would insert proposed section 54BA into the *Crimes Act 1900* to make it an offence to procure victims by making false or misleading representations, with the intent to commit a serious assault or robbery offence. The maximum penalty for the proposed offence is 5 years' imprisonment.
- 1.8 Schedule 2, item [2] seeks to add the proposed offence under section 54BA to Schedule 1, Table 2 of the *Criminal Procedure Act 1986*. This would require the offence under proposed section 54BA to be dealt with summarily unless the prosecutor elects have the offence dealt with on indictment.

The Bill would make it an offence to procure victims by making false or misleading representations with the intent to commit a serious assault or robbery offence, under proposed section 54BA of the *Crimes Act 1900*. It would also amend the *Criminal Procedure Act 1986* to classify the proposed offence under section 54BA as an indictable offence that must be tried summarily, unless the prosecutor elects to have the offence dealt with on indictment. This would 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 5 years' imprisonment may be denied procedural protections associated with indictable proceedings, including the possibility of a trial by jury.

The Committee acknowledges that the amendment may be intended to promote the efficient and expeditious determination of criminal matters. However, by preventing an accused person from electing to have their matter heard by a jury, this may unduly impact on their right to procedural fairness. For this reason, the Committee refers the issue to Parliament for consideration.

2. Crimes Amendment (Prohibited Organisation Symbols) Bill 2026

Date introduced	18 March 2026
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 the *Crimes Act 1900* (the **Crimes Act**), section 93ZB to:
- (a) prohibit the display of prohibited organisation symbols regardless of whether the organisation is a terrorist organisation
 - (b) require an offence against the section to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment
 - (c) allow a police officer to direct a person to stop displaying prohibited organisation symbols if the officer has a reasonable suspicion the person is doing so.

Background

- 2.2 The Bill seeks to amend the Crimes Act to expand existing offences relating to the display of prohibited terrorist organisation symbols, by aligning the NSW legislation with the recent changes to Commonwealth legislation.
- 2.3 The Bill builds on the existing offence under section 93ZB, which was inserted by the *Terrorism and Other Legislation Amendment Act 2025* in December 2025, in the immediate aftermath of the Bondi Beach antisemitism terror attack. The Bill extends the scope of the current provisions under section 93ZB by replacing references to 'prohibited terrorist organisation' with 'prohibited organisation', consistent with the changes made to the *Criminal Code Act 1995* (Cth) (the **Commonwealth Criminal Code**) in January 2026.
- 2.4 The Bill would also allow police officers to direct a person to remove a prohibited organisation symbol and make it an offence for failing to comply with such a direction.
- 2.5 Additionally, the Bill amends the *Criminal Procedure Act 1986* (the **Criminal Procedure Act**) to provide that offences under section 93ZB are to be dealt with summarily, and clarifies that the maximum penalty prescribed in the existing section 93ZB(1) applies, despite the limits ordinarily imposed in summary proceedings.
- 2.6 In his second reading speech, the Hon Michael Daley MP, Attorney General, explained that the Bill '... represents a vital step in strengthening our legislative framework against terrorism and extremism.' In explaining the alignment of NSW laws with the Commonwealth Criminal Code, the Attorney General added that:

New South Wales terrorism legislation is designed to complement Commonwealth terrorism legislation to support New South Wales law enforcement agencies to prevent and investigate the activities of terrorists, and to keep the community safe.

Issues considered by the Committee

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

Freedom of expression – display of prohibited organisation symbols

- 2.7 The Bill would broaden the current offence under section 93ZB of the Crimes Act by extending the current prohibition on the display of 'prohibited terrorist organisation' symbols to 'prohibited organisation' symbols, thereby aligning it with section 80.2E(3) of the Commonwealth Criminal Code.
- 2.8 Section 80.2E(3) of the Commonwealth Criminal Code defines each of the following as a prohibited organisation symbol:
- (a) a symbol that an organisation that is a terrorist organisation or prohibited hate group, or a member of such an organisation, uses to identify the organisation or any part of the organisation;
 - (b) something that so nearly resembles a symbol to which paragraph (a) applies that it is likely to be confused with, or mistaken for, that symbol;
 - (c) a symbol that:
 - (i) a state sponsor of terrorism uses; or
 - (ii) members (within the meaning of subsection 110.1(1)) of a state sponsor of terrorism use;
to identify the state sponsor of terrorism or any part of the state sponsor of terrorism;
 - (d) something that so nearly resembles a symbol to which paragraph (c) of this subsection applies that it is likely to be confused with, or mistaken for, that symbol.
- 2.9 The term 'prohibited hate group' was introduced into the Commonwealth Criminal Code by the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth). A group can be listed as a 'prohibited hate group' under section 114A.4 of the Commonwealth Criminal Code if the Governor-General is satisfied that the organisation has engaged in, or is likely to engage in, conduct constituting a hate crime.
- 2.10 The Bill would also give police additional enforcement powers under proposed section 93ZB(2B), which would allow police to direct a person to remove a suspected symbol from display, based on the definition in section 80.2E(3) of the Commonwealth Criminal Code. A failure to comply with such a direction without reasonable excuse would constitute a separate offence under proposed section 93ZB(2D). The offence

would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both.

The Bill would broaden the existing offence under section 93ZB of the *Crimes Act 1900* by extending the prohibition on the display of symbols from a 'prohibited terrorist organisation' to a 'prohibited organisation', which is a lower threshold. The term 'prohibited organisation' would align with definitions recently introduced under section 80.2E of the *Criminal Code Act 1995* (Cth) (the Commonwealth Criminal Code). The Commonwealth Criminal Code enables a terrorist organisation or prohibited hate group to be prescribed in a broad range of circumstances. Further, a group may be listed as a 'prohibited hate group' under section 114A.4 of Commonwealth Criminal Code if the Governor-General is satisfied that the group has engaged in, or is likely to engage in, conduct constituting a hate crime. This means that the proposed amendments may capture a significantly broader range of organisations and symbols.

The Committee previously reported on the Terrorism and Other Legislation Amendment Bill 2025 in Digest No. 40/58, which established the existing offence of displaying a prohibited terrorist organisation symbol. Consistent with those comments, the Committee notes that the Bill places restrictions on freedom of expression. The Committee generally comments where legislation limits a person's right to expression, as it is a core right protected under Article 19 of the International Covenant on Civil and Political Rights (ICCPR).¹ However, it also recognises that lawful restrictions may be permitted in the interests of national security, public safety, or the rights and freedoms of others. In that case, the Committee recognised that the Bill was intended to prevent the promotion and incitement of hate crimes through terrorist symbols, particularly in the context of the terrorist attack at Bondi Beach.

In this case, the Committee acknowledges that the Bill may be intended to address the broader harms associated with symbols that may incite fear, violence or hatred. The Committee also understands that the amendments are intended to align NSW and Commonwealth legislation. However, the significantly lower threshold and the expanded definition of 'prohibited organisation symbol' may capture an unduly broad range of expressive conduct. This may limit a person's ability to express views, including political or ideological views, through the display of symbols. For these reasons, the Committee refers the issue to Parliament for consideration.

Reversal of the onus of proof

- 2.11 Proposed section 93ZB(2D) would create a new offence where a person, 'without reasonable excuse', fails to comply with a direction by police, under proposed section 93ZB(2B), to remove a suspected prohibited organisation symbol from display.

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

- 2.12 The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both.

The Bill would create a new offence under proposed section 93ZB(2D) of the *Crimes Act 1900* where a person, without reasonable excuse, fails to comply with a police officer's direction to remove a prohibited organisation symbol from display, under proposed section 93ZB(2B). The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both.

The Committee notes that the inclusion of a 'without reasonable excuse' defence may operate to reverse the onus of proof, by requiring the defendant to adduce or point to evidence establishing that a reasonable excuse exists. This has the effect of shifting part of the evidential burden onto the accused in order to avoid criminal liability. The Committee notes that this may impact on the presumption of innocence, as recognised in Article 14 of the International Covenant on Civil and Political Rights.² The right to the presumption of innocence protects an accused person's right to be presumed innocent until proven guilty according to the law.

The Committee recognises that the prosecution retains the burden of proving the elements of the offence, including that a direction was given and that the person failed to comply with it. It also acknowledges that the presumption of innocence is not absolute, and that provisions imposing an evidential burden on a defendant are not uncommon in criminal law.

However, in this case, the offence under section 93ZB(2D) would carry a potential custodial penalty and, to avoid this penalty, the accused would bear the onus of having to prove that they had a reasonable excuse. For these reasons, the Committee refers the issue to Parliament for consideration.

Procedural fairness - right to trial by jury

- 2.13 Schedule 2 of the Bill seeks to add the offence under section 93ZB(1) of the Crimes Act to Schedule 1, Table 2 of the Criminal Procedure Act. This would require the offence to be dealt with summarily unless the prosecutor elects to have the offence dealt with on indictment.
- 2.14 An offence under section 93ZB(1) carries significant maximum penalties, including custodial sentences of up to two years' imprisonment.

The Bill would amend the *Criminal Procedure Act 1986* to classify the offence under section 93ZB(1) of the *Crimes Act 1900* as an indictable offence that must be tried summarily, unless the prosecutor elects to have the offence dealt with on indictment. This amendment would 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 acknowledges

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

that the amendment may be intended to promote the efficient and expeditious determination of criminal matters and to facilitate timely police investigations. However, by preventing an accused person from electing to have their matter heard by a jury, this may unduly impact on their right to procedural fairness. For this reason, the Committee refers the issue to Parliament for consideration.

Inconsistency with other laws

- 2.15 Proposed section 93ZB(2A) specifies that the maximum penalty for an offence dealt with summarily, under section 93ZB(1) of the Crimes Act, applies regardless of section 268 of the Criminal Procedure Act.
- 2.16 The maximum penalty currently prescribed under section 93ZB is a \$22,000 fine (200 penalty units) or imprisonment for 2 years, or both, for an individual, or a \$110,000 fine (1,000 penalty units) for a corporation.
- 2.17 Section 268(2)(h) of the Criminal Procedure Act limits the maximum fine that the court may impose for a Table 2 offence (indictable offences dealt with summarily) to a \$5,500 fine (50 penalty units).

The Bill proposes to insert section 93ZB(2A) into the *Crimes Act 1900*, which states that the maximum penalty for an offence dealt with summarily, under section 93ZB(1), applies regardless of section 268 of the *Criminal Procedure Act 1986*. Section 268(2)(h) currently limits the maximum fine for indictable offences dealt with summarily, under section 93ZB(1), to a \$5,500 fine (50 penalty units). However, proposed section 93ZB(2A) would override this limitation by allowing courts to impose higher maximum penalties. The maximum penalty for an offence under section 93ZB would be a \$22,000 fine (200 penalty units) or imprisonment for 2 years, or both, for an individual, or a \$110,000 fine (1,000 penalty units) for a corporation. The Committee generally comments on provisions that operate contrary to other laws, as this may make it difficult for individuals to understand the law that applies to them at any given time.

The Committee acknowledges that the policy objective of the Bill is to respond and address antisemitic incidents that have recently occurred in NSW. However, in this case, the inconsistency may impact on individual rights and liberties, noting that an individual may be liable for a custodial penalty. For these reasons, the Committee refers the issue to Parliament for 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 police powers

- 2.18 If a police officer 'reasonably suspects' that a person is displaying a prohibited organisation symbol, proposed section 93ZB(2B) would allow the police officer to direct the person to remove the suspected symbol from display.

- 2.19 Proposed section 93ZB(2C) provides that a removal direction may be given orally or in writing, it must specify the period in which the direction must be complied with, and it may be withdrawn by the police officer in the same way that the direction was given.
- 2.20 A failure to comply with such a direction without reasonable excuse would constitute a separate offence under proposed subsection 93ZB(2D). The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both.
- 2.21 Proposed subsection 93ZB(2E) expressly states that these enforcement powers are not to be subject to the limitations imposed by Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002* (the **LEPRA**).
- 2.22 In explaining the rationale for this amendment, the Attorney General, stated:

As is the case with Nazi symbols, it may not always be immediately clear to police whether a symbol is a prohibited organisation symbol, and formal determinations may take time. The removal power proposed by the bill enables police to act quickly to remove potentially harmful symbols from public view while an investigation into a suspected offence continues.

The Bill would insert section 93ZB(2B) into the *Crimes Act 1900*, which would allow police to direct a person to remove a symbol from display, where the officer 'reasonably suspects' that it is a prohibited organisation symbol. The new provisions would also create an offence for failure to comply with the direction. The offence would carry a maximum penalty of a \$2,200 fine (20 penalty units) or 3 months imprisonment, or both. These powers would operate outside the general limitations imposed under Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

The Committee acknowledges that the Bill is intended to address harms associated with the public display of certain symbols that may incite fear, hatred or violence. The Committee also recognises that the provisions are intended to enable police officers to act quickly while an investigation into a suspected offence is in progress.

However, the Committee notes that the combination of a broad threshold of 'reasonable suspicion', and the creation of an offence for non-compliance, may result in a wide discretionary power being conferred on police officers. The use of this power is also linked to the expanded definition of a 'prohibited organisation', as mentioned above, which would further expand its scope. Additionally, the Committee notes that non-compliance with a direction may attract a custodial penalty. For these reasons, the Committee refers the issue to Parliament for consideration.

3. Crown Land Management Amendment (Statutory Review) Bill 2026

Date introduced	17 March 2026
House introduced	Legislative Council
Member with carriage	The Hon Daniel Mookhey MLC

Purpose and description

- 3.1 The object of the Bill is to make miscellaneous amendments that give effect to the recommendations arising from the statutory review of the *Crown Land Management Act 2016* (the **Act**).

Background

- 3.2 The Bill seeks to amend the Act and related legislation and regulations to:
- amend and consolidate the objects of the Act
 - restructure and clarify rules relating to Crown land managers
 - broaden government powers for dealing with Crown land
 - create a vesting framework for the transfer of Crown land to native title holders
 - strengthen the protection and compliance framework for Crown land
 - simplify and clarify the language of the Act
 - make other amendments for related purposes.
- 3.3 In his second reading speech, the Hon Mark Buttigieg MLC, who introduced the Bill on behalf of the Hon Daniel Mookhey MLC, explained that the Government undertook a statutory review of the Act that '... involved a six-week public consultation process, which yielded valuable insights from stakeholders.'
- 3.4 The consultation informed this Bill, which proposes amendments to the Act with three broad goals: maximising public value from Crown land, building stronger, more capable Crown land managers, and embracing modern ways of working.

Issues considered by the Committee

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

Procedural fairness - Aboriginal land claims

- 3.5 Section 36 of the *Aboriginal Land Rights Act 1983* (the Land Rights Act) allows Aboriginal Land Councils to make claims for Crown land that is 'not lawfully used or occupied'.

- 3.6 Proposed section 5.20B(1) allows the Minister to declare holdings over Crown land to be valid if the Minister is 'reasonably satisfied making the declaration is in the public interest'.
- 3.7 Proposed section 5.20B(4) states that 'the granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act.'
- 3.8 Proposed section 3.28(1) allows a Crown land manager to grant a 'secondary interest', including a lease, if satisfied that doing so would meet criteria specified by regulations.
- 3.9 Proposed section 3.29 allows the Minister to validate a secondary interest that was not validly granted under section 3.28. The Minister's validation would retrospectively apply to the date the interest was originally intended to be granted.

The Bill would insert section 5.20B(4) into the *Crown Land Management Act 2016*, which states that 'the granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act'. This provision would effectively extinguish Aboriginal Land Council claims under the *Aboriginal Land Rights Act 1983*, where that land is subject to a lease. In doing so, it would also override the recent decision of the High Court of Australia in *La Perouse Local Aboriginal Land Council v Quarry Street Pty Ltd [2025] HCA 23*, which held that land must be actually used, and not just held under lease, to exclude Crown land from Aboriginal land claims.

The *Aboriginal Land Rights Act 1983* is the legislative foundation upon which land is returned to Aboriginal communities to enable economic, social and cultural outcomes. The Committee notes that the Bill would therefore undermine Aboriginal peoples' right to the lands, territories and resources that they have traditionally owned, occupied or otherwise used. These rights are codified at Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples, which Australia has endorsed.

Additionally, proposed section 3.28(1) would allow a Crown land manager to grant leases subject to regulations. If a Crown land manager has invalidly granted a lease under section 3.28(1), the Minister could retrospectively validate that lease under proposed section 3.29. These provisions would introduce broad retrospective powers to validate unlawful tenures and, therefore, extinguish Aboriginal land claims without any stated policy rationale. This would further impact on procedural fairness for Aboriginal Land Councils in making claims for unused Crown Land. For these reasons, the Committee refers the issue to Parliament for consideration.

Inconsistency with other laws

- 3.10 Proposed section 3.41A states that proposed Division 3.6B – Native Title would apply '... despite anything in the *Local Government Act 1993*.'

The Bill would insert Division 3.6B – Native Title into the *Crown Land Management Act 2016*. Proposed section 3.41A would apply this division '... despite anything in the *Local Government Act 1993*.' The Committee generally comments on provisions that operate contrary to other laws, particularly where they impact individual rights and liberties, as this may

make it difficult for individuals to understand the law that applies to them at any given time.

While the Committee acknowledges that this contrary operation may be intended to provide a clear and consistent legislative framework for Crown land management, the proposed amendment could be more effectively achieved through changes to the *Local Government Act 1993*, which would maintain the consistency of the statute book. For this reason, the Committee refers the matter to Parliament for consideration.

Retrospectivity

- 3.11 Schedule 1, item 132 of the Bill would insert savings and transitional provisions into the Act, which would retrospectively apply proposed Division 4.5 and sections 5.66 and 9.6A.
- 3.12 Divisions 4.2 – 4.3 of the Act currently allow the Minister to vest Crown land in local councils and other government agencies.
- 3.13 Proposed Division 4.5 allows the Minister to resume land vested under these divisions back to the Crown if certain conditions are breached.
- 3.14 Proposed section 5.66 allows the Minister to issue improvement notices to Crown land holders, and to remedy breaches and recover costs from the holder if the improvement notice is not complied with.
- 3.15 Proposed section 9.6A allows the Minister to recover costs from a person for works on private land or Crown land if the works are necessary to address contamination, pollution or damage on Crown land, and the person has failed to comply with a direction to remedy.

Schedule 1, item 132 of the Bill would insert savings and transitional provisions into the *Crown Land Management Act 2016*, which would retrospectively apply proposed Division 4.5 and sections 5.66 and 9.6A to dealings on Crown land prior to the commencement of the Bill. These provisions would allow the Minister to resume land vested in local councils and government agencies before the commencement of the relevant provisions, and to recover costs for activities that occurred before the commencement of that section.

The Committee generally comments on provisions that are drafted to have retrospective effect because they impact on the rule of law principle that a person is entitled to have knowledge of the law that applies to them at any given time.

However, the Committee acknowledges that this retrospective application may be intended to provide a clear and consistent legislative framework for the management of Crown land. The Committee also notes that the proposed amendments would not impact on individuals. For these reasons, the Committee makes no further comment.

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

Henry VIII provisions

- 3.16 Proposed section 3.2A allows regulations to be made that '... modify how provisions of the *Local Government Act 1993* apply to Crown land managers.'
- 3.17 Proposed section 3.21(3) allows the regulations to modify the application of the Act to land acquired by a Crown land manager.
- 3.18 Proposed sections 1.15(3)-(4) allow regulations to be made that apply Parts 2, 9, 10 and 11 of the Act to Crown land managed under another Act. The applied provisions would have effect despite the other Act.

The Bill proposes to insert sections 3.2A, 3.21 and 1.15 into the *Crown Land Management Act 2016*. Each section allows regulations to be made that could substantively change the application of existing legislation. Each section may therefore amount to a Henry VIII provision, or operate similarly to a Henry VIII provision, by allowing the Executive to alter or amend the operation of an existing Act by way of regulation. The Committee generally considers Henry VIII clauses in bills to be an inappropriate delegation of legislative powers, as regulations do not receive the same level of parliamentary scrutiny as primary legislation.

Additionally, proposed section 1.15 would allow regulations to apply certain parts of the Act to Crown land that is managed under any other Act, despite any inconsistencies. Provisions that apply contrary to other laws may make it difficult for individuals to understand the law that applies to them at any given time. For this reason, the Committee refers the matter to Parliament for consideration.

Wide regulation-making powers

- 3.19 Proposed subsection 2.2A(2) allows regulations to prescribe criteria for the addition and alteration of a purpose for which Crown land is dedicated or reserved.
- 3.20 Proposed subsection 5.2(4)(f)(iii) allows regulations to create further 'mandatory matters' which would make existing holdings of Crown land unenforceable.
- 3.21 Proposed section 5.9 prohibits the Minister from selling or disposing of Crown land in the Western Division unless the Minister is satisfied of the matters prescribed by regulations.
- 3.22 Proposed subsection 5.57(4) allows regulations to prescribe circumstances where the Minister for the Environment is not required to consent to the removal of restrictions or covenants on Crown land.
- 3.23 Proposed subsection 13.5(2)(a) allows the regulations to determine the obligations and liabilities of Crown land managers in relation to native title matters.

The Bill amends the *Crown Land Management Act 2016* to create broad regulation-making powers, including the power to determine the matters that the Minister must consider when altering the purpose for which Crown land is dedicated and reserved, or when selling or disposing of Crown land in the Western Division.

The Committee generally prefers substantive matters to be set out in legislation rather than regulations to ensure an appropriate level of parliamentary oversight. The Committee acknowledges that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. The Committee also recognises that these kinds of regulation-making powers may allow for more flexible regulatory responses. However, in this instance the regulation-making powers relate to key substantive matters that are central to the Bill. For this reason, the Committee refers the matter to Parliament for consideration.

Commencement by proclamation

- 3.24 The Bill would commence on a day or days to be appointed by proclamation.
- 3.25 The Statement of Public Interest for the Bill notes that 'This is to provide sufficient time for implementation planning, including development of communication for stakeholders about key changes to the Act.'

The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons, particularly if the legislation impacts individual rights and liberties. 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 would facilitate greater flexibility in the implementation of this complex regulatory framework. It would also allow sufficient time for implementation planning, including communication to stakeholders about the proposed changes. For these reasons, the Committee makes no further comment.

4. Education Amendment (School Community Safety) Bill 2026

Date introduced	18 March 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Prue Car MP

Purpose and description

- 4.1 The object of the Bill is to amend the *Education Act 1990* to allow orders to be made in relation to schools or places related to schools to protect students and staff from unreasonable behaviour that causes harm, including by disrupting the learning environment and interfering with each child's right to a quality education.

Background

- 4.2 The Bill proposes to amend the *Education Act 1990* (the **Act**) to introduce a framework for orders to be made in relation to schools or related places to address behaviour that is disrupting education in schools.

- 4.3 During her second reading speech, the Hon Prue Car MP, Minister for Education, stated that the Bill will:

... enshrine clearly in law the type of harmful behaviour and communication that we cannot accept in and around our schools. It will give authorised persons, such as education system leaders and school leaders, the power to issue a School Community Safety Order when an adult community member's behaviour is simply unacceptable and when it impinges on the education of the students.

- 4.4 The Minister further explained:

These measures are designed to promote respectful, constructive engagement with schools—the type of respectful, constructive engagement we expect of our students. The bill puts in place stronger protections against the kind of behaviour we will not stand for anywhere else in our society. It is about setting a standard for respectful and reasonable behaviour.

- 4.5 The Bill proposes to insert new Part 5B into the Act to establish a framework for the making of school safety orders, including definitions of 'unreasonable behaviour' and 'unreasonable communication'. Part 5B sets out three types of orders: immediate orders, ongoing orders and protection orders.

- 4.6 Division 2 provides for the making of immediate orders, directing a relevant adult to take relevant action, where:

- the behaviour of the adult is unreasonable, and
- the behaviour causes or poses an unacceptable and imminent risk of causing harm to a person, disruption of the operation or activities at the protected place, an

adverse impact on the wellbeing or safety of students or effect on their educational opportunities, and

- the immediate order is necessary to address the risk.
- 4.7 Division 3 provides for the making of ongoing orders on similar grounds and provides a process for the making of ongoing orders, for up to 12 months, as well as factors that must be considered before making the order. It then sets out requirements for making those orders, including being in written form, and a requirement to provide for communication and access arrangements for a relevant adult.
- 4.8 Division 4 outlines how a person can apply for the review of an ongoing order, including internal reviews and applications to the Tribunal for administrative reviews.
- 4.9 Division 5 proposes to set out the framework for the making of protection orders by the Minister if a relevant adult contravenes an ongoing order. Protection orders can impose prohibitions or restrictions to address the risk of harm in relation to the protected place as a result of the contravention. The Division sets out procedures for making and administering protection orders, including:
- matters the Minister must consider before making an application to the Local Court for a protection order
 - procedures for the Local Court to hear and determine an application for a protection order
 - processes for the Local Court in making a protection order and the factors that must be considered before making a protection order
 - the variation or revocation of protection orders
 - procedural matters for the protection of children or young persons who appear as a witness in hearings for a protection order
 - a process for appealing a decision of the Local Court regarding the making of a protection order.
- 4.10 Division 6 sets out miscellaneous provisions, including the making of guidelines to inform decision-making regarding orders, delegation powers and the process of giving orders.

Issues considered by the Committee

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

Incorporation of external guidelines not subject to disallowance

- 4.11 Section 26ZO provides that the Minister may make guidelines for Part 5B. Section 26ZQ(2) states that the object of the guidelines is to advise an appropriate person of the following:
- the circumstances in which behaviour and communication may be considered unreasonable

- the circumstances in which it is appropriate to make an immediate order or ongoing order
 - the circumstances in which it is appropriate to extend an immediate order
 - the relevant action that should be included in an order in particular circumstances
 - the relevant communication and access arrangements in relation to an immediate order or ongoing order.
- 4.12 Section 26ZO(3) provides that the guidelines must include matters required to be included in Part 5B, and may provide guidance on matters related to the operation of that part that the Minister considers appropriate.
- 4.13 The Ministerial guidelines must be considered when:
- deciding whether to make an immediate order, under section 26S
 - making access arrangements, under section 26T(3)
 - deciding whether to make an ongoing order, under section 26V.
- 4.14 The guidelines would also set out the relevant notice periods and timeframes for completion of internal reviews, and the levels of delegation for authorised persons in non-government schools.
- 4.15 In her second reading speech, the Minister acknowledged that the power to make school safety orders is a 'significant power'.

The Bill proposes to insert section 26ZO into the *Education Act 1990* to provide for the making of Ministerial guidelines. The main object of the guidelines is to advise an appropriate person of certain circumstances and actions related to school safety orders. Under section 26ZO(3), the guidelines must be considered when deciding whether to make an immediate order under section 26S or an ongoing order under section 26V. An immediate order would allow an appropriate person to direct a relevant adult to take a particular action, where their behaviour is unreasonable. The guidelines also set out key matters, including the relevant notice periods and timeframes for the completion of internal reviews.

There does not appear to be any requirement for the document to be tabled in Parliament. This document, and any revisions to it, are therefore not subject to parliamentary scrutiny. The Committee generally prefers that substantive matters are set out in primary legislation or regulations where they can be subjected to parliamentary scrutiny, particularly where they affect individual rights and liberties.

The Committee understands that the Ministerial guidelines may provide greater flexibility, as they can be updated to reflect changing circumstances. However, the matters to be included in the guidelines are substantive matters that inform the framework for making school safety orders. The Committee also notes that the power to make a school safety order against an individual is a significant power that may impact on that individual's personal rights and liberties. For these reasons, the Committee refers the matter to Parliament for consideration.

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

Commencement by proclamation

4.16 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.

However, the Committee acknowledges that a flexible start date may be necessary to develop the administrative framework for the making of school safety orders. In the circumstances, the Committee makes no further comment.

5. Electoral Legislation Amendment (Elections) Bill 2026

Date introduced	17 March 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Jenny Aitchison MP

Purpose and description

5.1 The object of the Bill is to make miscellaneous amendments to the *Electoral Act 2017* (the **Electoral Act**), the *Electoral Funding Act 2018*, the *Independent Commission Against Corruption Act 1988* and the *Local Government Act 1993*, including amendments:

- (a) to facilitate the 2027 NSW general election
- (b) to implement the Government's response to recommendations from the report of the Joint Standing Committee on Electoral Matters on its inquiry into the administration of the 2023 NSW State election and other matters
- (c) to make further provision in relation to new party registration, administration, disclosures and other matters.

Background

5.2 In her second reading speech, the Hon Jenny Aitchinson MP stated:

The bill represents a significant step in strengthening the integrity and transparency of our electoral system. It is the result of careful consideration of the 2023 State election, detailed inquiries led by the Joint Standing Committee on Electoral Matters and the advice of Electoral Commission staff in relation to the practicalities of administering elections in our State. I am confident that the Electoral Legislation Amendment (Elections) Bill 2026 will ensure that our electoral framework is robust and capable of ensuring high levels of voter confidence and participation in the lead-up to the State election next year.

5.3 The main purposes of the Bill are to bring the 2027 general election date forward by two weeks to avoid a clash with the 2027 Easter long weekend, and to implement recommendations made by the Joint Standing Committee on Electoral Matters regarding voter engagement and electoral integrity. Among other things, the Bill would:

- expand the declared facilities that are eligible for mobile early voting services
- enable people with physical disability, illness, advanced pregnancy or another condition to vote outside a voting centre in certain circumstances

- strengthen the NSW Electoral Commission's education and public awareness function
- regulate digitally generated electoral material, including by introducing new offences
- enhance the safety of election officials, including by introducing new offences
- protect the privacy of voter enrolment information
- make changes to arrangements for party registration and disclosures.

Issues considered by the Committee

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

Strict liability offence

- 5.4 Section 207 of the Electoral Act currently stipulates that an elector is guilty of an offence if they fail to vote at an election. Subsection (2) defines when a person is deemed to have voted.
- 5.5 Proposed subsection (2A) provides that it is not a defence to a prosecution that a defendant did not know that an election was being conducted.
- 5.6 The maximum penalty for this offence is a \$110 fine (1 penalty unit).

The Bill seeks to amend the existing offence of 'failing to vote', under section 207 of the *Electoral Act 2017*, by removing a defence that is currently available. Proposed subsection 207(2A) provides that it is not a defence under section 207 if a person did not know an election was being conducted. By removing this defence, the Bill would make the existing offence a strict liability offence.

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

However, the Committee acknowledges that strict liability offences are not uncommon in regulatory frameworks to encourage compliance. Additionally, the Committee notes that the offence would carry a monetary penalty rather than a custodial penalty. For these reasons, the Committee makes no further comment.

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

Commencement by proclamation

- 5.7 Clause 2 of the Bill provides that section 3(1) and Schedule 2, items 30, 31 and 44 would commence on a day or days to be appointed by proclamation.
- 5.8 Section 3(1) would repeal the Electoral Funding (Adjustable Amounts) (Administrative Funding) Notice 2025.

- 5.9 Schedule 2, item 30 would replace section 87 of the *Electoral Funding Act 2018*, which provides for the quarterly amounts to be distributed to eligible parties from the Administration Fund.
- 5.10 Schedule 2, item 31 would amend section 88(3) of the *Electoral Funding Act 2018* by increasing the quarterly amount to be distributed to independent members from the Administration Fund.
- 5.11 In her second reading speech, the Minister explained that these amendments are the result of a finding of the Joint Standing Committee on Electoral Matters, that '... the current level of funding provided is inadequate to cover the actual costs incurred for administration and compliance requirements, and those costs are rising.' She further explained:
- The proposed changes relating to Administration Fund entitlements will commence on proclamation after implementation of any recommendations of the working group that is being established to consider Operation Aero recommendations to improve governance standards for political parties.
- 5.12 Schedule 2, item 44 would also amend Schedule 1, clause 5(2) of the *Electoral Funding Act 2018* to update the calendar year to '2027'.

Section 3(1) and Schedule 2, items 30, 31 and 44 of the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges that there may be practical reasons for allowing a flexible start date. In this case, the reasons include waiting for a certain working group's recommendations to be implemented, and allowing time for relevant agencies to establish the necessary administrative procedures to implement the Bill's provisions. The Committee also notes that the relevant provisions would not directly impact individual rights and liberties. For these reasons, the Committee makes no further comment.

6. Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026

Date introduced	18 March 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Anoulack Chanthivong MP

Purpose and description

- 6.1 The object of the Bill is to amend:
- (a) the *Property and Stock Agents Act 2002* (the **PSA Act**) in relation to the underquoting of selling prices of residential property by real estate agents and other agent conduct
 - (b) the *Fair Trading Act 1987* to make it an offence to impersonate certain authorised officers.

Background

- 6.2 In his second reading speech, the Hon Anoulack Chanthivong MP, Minister for Better Regulation and Fair Trading, explained:

This bill forms part of the broader reform agenda, complementing recent improvements to strata laws, building quality and rental security. Underquoting undermines trust in the real estate industry and misleads consumers about property prices. It causes consumers to repeatedly pursue properties they never had a realistic chance of purchasing. Underquoting occurs when agents advertise or make representations about the price of a residential property for less than the estimated selling price set out in the agreement that they have with the vendor. I will also refer to underquoting as the practice of agents underestimating the likely selling price of a property in their agreement, which then allows agents to advertise and make representations at a lower price.

- 6.3 The primary purposes of the Bill are to:
- place greater obligations on real estate agents, including obligations to:
 - take into account sold prices of comparable properties when determining estimated sale prices against guidelines dictated by regulations
 - prepare a statement of information to provide prospective buyers with pricing information relevant to the property for sale
 - keep records to justify their estimated selling prices

- ensure that every residential property advertisement, other than 'for sale' signs, includes a selling price or price range
- increase and introduce penalties for agents who do not comply with their obligations
- strengthen the enforcement and disciplinary powers of Fair Trading.

Issues considered by the Committee

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

Commencement by proclamation

6.4 Clause 2 of the Bill provides that the following items in Schedule 1 would commence on a day or days to be appointed by proclamation:

- Items 1 and 13, which propose to insert a number of definitions into the PSA Act.
- Items 14-19, which propose to make a series of changes regarding representations about selling prices and the role and responsibilities of real estate agents.
- Item 21, which seeks to increase the monetary penalty for a person facing disciplinary action.
- Item 27, which would provide for the recovery of certain penalties and amounts.
- Item 28, which would permit the Secretary to approve a person as a provider of education or training for the purposes of professional development of licensees and registered persons.
- Item 29, which would insert savings and transitional provisions consequent on the Bill's proposed amendments to the PSA Act.

A number of proposed amendments to the *Property and Stock Agents Act 2002* would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date. In this case, a flexible start date would provide time for relevant agencies, such as Fair Trading, to establish administrative procedures necessary to implement the Bill's provisions. For this reason, the Committee makes no further comment.

7. Road Legislation Amendment (E-Bike Regulation) Bill 2026*

Date introduced	19 March 2026
House introduced	Legislative Assembly
Member with carriage	Ms Jacqui Scruby MP
	*Private member's bill

Purpose and description

- 7.1 The object of the Bill is to provide for the regulation of the sale, ownership and use of e-bikes, including to permit the making of statutory rules for the licensing of e-bike riders and the registration of e-bikes.

Background

- 7.2 The Bill proposes amendments to the *Road Transport Act 2013* (the **Act**) and the Road Rules 2014, including to:

- prohibit the modification or riding of e-bikes that continue to supply power at a speed above 6km/h without the rider pedalling, or 25km/h with the rider pedalling
- require the Minister for Transport to collect and report on information about deaths and injuries relating to e-bike crashes
- provide for a regulatory framework of e-bike registration and rider licencing.

- 7.3 In her second reading speech, Ms Jacqui Scruby MP explained that, despite the 'exponential explosion' of e-bike sales in NSW, the Act treats traditional bicycles and e-bikes as 'legally the same'. She stated:

The most pressing consequence of this regulatory void is a public health crisis unfolding in real time. Data recently released by St Vincent's Hospital Sydney shows that serious injuries from e-bike accidents have jumped 350 per cent since 2023. Last year alone, there were 200 severe e-bike related presentations to their trauma team.

Issues considered by the Committee

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

8. Water NSW Amendment (Warragamba Dam) Bill 2026*

Date introduced	19 March 2026
House introduced	Legislative Assembly
Member with carriage	Ms Judy Hannan MP
	*Private member's bill

Purpose and description

- 8.1 The object of the Bill is to amend the *Water NSW Act 2014* (the **Act**):
- (a) to repeal the provisions for reduced requirements under the *National Parks and Wildlife Act 1974* for the temporary inundation of national park land from the Warragamba Dam project
 - (b) to authorise Water NSW to operate Warragamba Dam for the purposes of facilitating flood mitigation downstream of the dam.

Background

- 8.2 The Bill amends the Act to repeal provisions relating to the inundation of national park land, and to authorise Water NSW to operate Warragamba Dam for flood mitigation purposes.
- 8.3 In her second reading speech, Ms Judy Hannan MP stated that the Bill is 'an essential step' to ensure '... lowering [dam] levels for flood prevention without wall raising or national park inundation.'
- 8.4 Ms Hannan stated that, at present, the legislation does not allow for action to be taken because of the Independent Pricing and Regulatory Authority (**IPART**) licence restrictions. She explained:

The bill adds a new section authorising Water NSW to operate the Warragamba Dam as it is to facilitate flood mitigation downstream of the dam. That addresses the Independent Pricing and Regulatory Authority [IPART] licence restrictions, which limit any mitigation outside Sydney's catchment.

Issues considered by the Committee

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

Broad discretionary power without oversight

- 8.5 The Bill would insert proposed section 116 into the Act, which provides that, '... despite any term or condition of an operating licence, Water NSW is authorised to operate Warragamba Dam for the purposes of facilitating flood mitigation downstream of the dam.'

The Bill would insert proposed section 116 into the *Water NSW Act 2014* to allow Water NSW to operate the Warragamba Dam, ' ... despite any term or condition of an operating licence ... ', for the purposes of facilitating downstream flood mitigation.

This provision confers a broad discretionary power on Water NSW to effectively override the Independent Pricing and Regulatory Authority's licence restrictions, without prescribing any limitations or safeguards to govern the exercise of that power. There also does not appear to be any requirement for the giving of reasons, or any avenues for challenging the exercise of those powers. The Committee notes that this may, therefore, potentially impact downstream landowners. For these reasons, the Committee refers the issue to Parliament for consideration.

Part Two – Regulations with comment

1. Crimes (Administration of Sentences) Amendment (Exempt Persons) Regulation 2026

Date tabled	LA: 3 February 2026 LC: 3 February 2026
Disallowance date	LA: N/A LC: N/A
Minister responsible	The Hon Anoulack Chanthivong

Purpose and description

- 1.1 The object of the Regulation is to clarify that a legal practitioner is not an exempt person in relation to an inmate unless the legal practitioner represents the inmate, which includes providing legal advice to the inmate, or is in the process of becoming a legal representative of the inmate.
- 1.2 The Regulation amends the Crimes (Administration of Sentences) Regulation 2014 and is made under the *Crimes (Administration of Sentences) Act 1999*.
- 1.3 A notice of motion to disallow the Regulation was given in the Legislative Council on 10 February 2026. The motion was agreed to and the Regulation was disallowed on 19 March 2026, prior to the tabling of this Digest and, therefore, before the Committee could report on it.
- 1.4 Section 9(1A) permits the Committee to report on 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. The Committee resolved to review and report on this Regulation at its meeting on 16 March 2026.

Issues considered by the Committee

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

Lack of clarity potentially impacting procedural fairness and access to justice

- 1.5 The Regulation amends the definition of 'exempt person' in the Crimes (Administration of Sentences) Regulation 2014.
- 1.6 In its previous form, the Regulation defined an 'exempt person' as a Member of Parliament, a legal practitioner or a police officer. The new clause 3(1) narrows the category of legal practitioner to only include a practitioner who represents an inmate or is 'in the process of becoming' a legal representative of the inmate.

The Regulation amends the definition of 'exempt person' in the Crimes (Administration of Sentences) Regulation 2014 to provide that a legal

practitioner is only an exempt person in relation to an inmate if the practitioner represents the inmate, including by providing legal advice to the inmate, or is 'in the process of becoming' the inmate's legal representative.

The amendment narrows the number of legal practitioners who may be captured by provisions applying to exempt persons, including clause 113 of the Crimes (Administration of Sentences) Regulation 2014, which allows for confidential communication between an 'exempt person' and an intimate under the principal of privileged correspondence.

By narrowing the category of legal practitioners deemed to be an 'exempt person' , the Regulation may limit an unrepresented inmate's capacity to obtain legal advice. The right of an inmate to access legal advice or representation is fundamental to their right to a fair hearing, and to access to justice more broadly.

The Committee also notes that the words 'in the process of becoming' in clause 3(1)(c)(ii) are not sufficiently defined, and set no threshold against which a relationship between an inmate and a legal practitioner may be assessed. The absence of any guidance as to when this process is taken to have commenced, or who determines it, may place Corrective Services officers in a position of uncertainty, with the risk of the definition being applied inconsistently.

The Committee notes that a notice of motion to disallow the Regulation was given in the Legislative Council on 10 February 2026. The motion was agreed to and the Regulation was disallowed on 19 March 2026, prior to the tabling of this Digest and, therefore, before the Committee could report on it. However, noting the significance of the amendments, the Committee refers the matter to Parliament for consideration.

2. Major Events Amendment (Israeli Presidential Visit) Regulation 2026

Date tabled	LA: 10 February 2026 LC: 10 February 2026
Disallowance date	LA: 14 May 2026 LC: N/A
Minister responsible	The Hon Stephen Kamper MP

Purpose and description

- 2.1 The object of the Regulation is to declare the Israeli Presidential Visit to be a major event for the *Major Events Act 2009* (the **Act**). The Regulation:
- (a) describes the major event
 - (b) designates the Commissioner of Police as the responsible authority for the event
 - (c) provides for the issuing of penalty notices in relation to offences in relation to a major event.
- 2.2 The Regulation amends the Major Events Regulation 2025 and is made under the *Major Events Act 2009*.
- 2.3 The Regulation commenced on 6 February 2026, the day on which it was published on the NSW Legislation website.
- 2.4 A notice of motion to disallow the Regulation was given in the Legislative Council on 10 February 2026. The motion was negated on 12 February 2026, meaning that it was not disallowed.

Issues considered by the Committee

May not accord with the spirit of the legislation under which it was made, even though it may have been legally made: s 9(1)(b)(iv) of the LRA

Declaration inconsistent with intent of Major Events Act – impact on protest activity

- 2.5 Part 3 of the Regulation declares the Israeli Presidential Visit as a major event under section 5(1) of the Act.
- 2.6 The Israeli Presidential Visit is defined under section 12 as 'the Australian Government's Guest of Government visit of Israeli President, Isaac Herzog, and other Israeli dignitaries, in the aftermath of the 14 December 2025 Bondi terrorist attack.' Section 15 states that the major event 'is taking place in Sydney from 9 February 2026 to 12 February 2026.'

- 2.7 The making of a major event declaration would give police additional powers in relation to crowd management at major events, under Division 5 of the Act.
- 2.8 Section 5(6) of the Act explicitly states that the regulations may not declare 'an industrial or political demonstration or protest to be a major event.'

The Regulation amends the *Major Events Regulation 2025* to declare the Israeli Presidential Visit to Australia as a major event under the *Major Events Act 2009* (the Act). The event is defined as 'the Australian Government's Guest of Government visit of Israeli President, Isaac Herzog, and other Israeli dignitaries, in the aftermath of the 14 December 2025 Bondi terrorist attack', from 9 February to 12 February 2026. During this time, the declaration granted police additional powers in relation to crowd management, under Division 5 of the Act.

Section 5(6) of the Act states that the regulations may not declare an industrial or political demonstration or protest to be a major event. However, the operative effect of the declaration was to suppress a planned protest against the Israeli Presidential Visit on 9 February 2026, and to give police additional powers in relation to the protest. The Committee is of the view that the declaration of the Israeli Presidential Visit as a major event is therefore inconsistent with the spirit of the Act, despite being lawfully made.

The Committee acknowledges that the major event declaration was only effective from 9 February 2026 to 12 February 2026, and that disallowance of the Regulation would have no practical effect at this stage. It also understands that a disallowance motion was negated in the Legislative Council on 12 February 2026. However, noting the significant impact of the amendments, the Committee refers the matter to Parliament for consideration.

3. Surveillance Devices Amendment (ICAC) Regulation 2026

Date tabled	LA: 17 March 2026 LC: 17 March 2026
Disallowance date	LA: 2 June 2026 LC: 23 June 2026
Minister responsible	The Hon Michael Daley MP

Purpose and description

- 3.1 The object of the Regulation is to extend the exemption of the Independent Commission Against Corruption (**ICAC**) from the *Surveillance Devices Act 2007* (the **Act**), Part 2 in relation to the use of surveillance device recordings unlawfully obtained by a person other than ICAC.
- 3.2 The Regulation may be made under a Henry VIII provision because the exemption impliedly amends the Act by affecting its application.
- 3.3 The Regulation extends the repeal of section 6A of the Surveillance Devices Regulation 2022 from 30 June 2026 to 31 December 2026.
- 3.4 Section 6A was inserted by the Surveillance Devices Amendment (ICAC) Regulation 2023 (the **2023 Regulation**), which the Committee reported on in Legislation Review Digest No. 3/58.
- 3.5 Section 6A was then extended from 31 December 2025 to 30 June 2026 by the Surveillance Devices Amendment (ICAC) Regulation 2025 (the **2025 Regulation**), which the Committee reported on in Legislation Review Digest No. 38/58.
- 3.6 As this Regulation provides for the continuity of the provisions in the 2023 Regulation, which were extended by the 2025 Regulation, the comments in this report are largely consistent with the comments in Digests No. 3/58 and 38/58.

Issues considered by the Committee

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

Right to privacy

- 3.7 Section 6A of the 2023 Regulation provided that the ICAC and an officer of the ICAC were exempt from Part 2 of the Act in relation to the ICAC obtaining, possessing, publishing or communicating a record of a private conversation or activity obtained by the use of a surveillance device in contravention of the Act. This would allow the ICAC and its officers to use evidence obtained from surveillance devices without being subject to the penalties set out in Part 2 of the Act.

3.8 Part 2 of the Act regulates the installation, use and maintenance of surveillance devices. Subject to specified conditions, Part 2 of the Act sets out a number of offences which prohibit:

- (a) the installation, use and maintenance of listening devices
- (b) the installation, use and maintenance of optical surveillance devices without consent
- (c) the installation, use and maintenance of tracking devices
- (d) the installation, use and maintenance of data surveillance devices
- (e) communicating or publishing private conversations or recordings of activities
- (f) possessing a record of a private conversation or activity
- (g) manufacturing, supplying and possessing listening and other devices for unlawful use
- (h) communicating and publishing information from the use of a data surveillance device.

The Regulation extends the repeal of section 6A of the Surveillance Devices Regulation 2022 by an additional 6 months. This provision exempts the Independent Commission Against Corruption (ICAC) and its officers from contravening provisions of Part 2 of the *Surveillance Devices Act 2007*.

This exemption has the potential to impact an individual's right to privacy, as it permits the ICAC to lawfully use certain material obtained illegally by a third party through the use of a surveillance device without consent or a warrant in certain circumstances. For example, the ICAC would be permitted to publish or communicate a recorded private conversation.

The Committee acknowledges that section 6A is not intended to exempt the ICAC from the requirement to apply for a surveillance device warrant in its investigations. It also recognises that the exemption is time-bound, as it will now expire on 31 December 2026. Additionally, the Committee understands that the exemption inserted under the Surveillance Devices Amendment (ICAC) Regulation 2023 was, at the time, associated with an ongoing investigation of the ICAC. However, it is unclear if this investigation remains ongoing. As the Committee noted in Legislation Review Digest No. 3/58, section 6A is not worded in a way which limits its application to any particular investigation.

The Committee therefore notes that the exemption under section 6A would allow the ICAC to use information that a third party has obtained without a requisite warrant or consent. It also notes the absence of any safeguards to limit or allow a challenge or review of its application. The use of surveillance devices without a warrant can impact on an individual's right to privacy without the requirement for judicial oversight. For these reasons, the Committee refers the matter to Parliament for consideration.

Procedural fairness

- 3.9 As discussed above, section 6A of the 2023 Regulation exempted the ICAC from being subject to Part 2 of the Act, and it permits the ICAC to lawfully use certain material obtained illegally by a third party with the use of a surveillance device.
- 3.10 Section 14 of the *Independent Commission Against Corruption Act 1988* (the **ICAC Act**) provides that one of the ICAC's functions is gathering and assembling evidence that may be admissible in the prosecution of a criminal offence, and providing that evidence to the Director of Public Prosecutions (the **DPP**). Under section 52A of the ICAC Act, the DPP may request that the ICAC exercise its powers following an investigation, such as obtaining information and issuing a search warrant to furnish admissible evidence to the DPP.
- 3.11 Additionally, section 112 of the ICAC Act states that the ICAC is obligated to disclose information to the DPP, under section 15A of the *Director of Public Prosecutions Act 1986* (the **DPP Act**). Section 15A of the DPP Act provides that, in certain circumstances, law enforcement or investigating officers have a duty to disclose to the DPP all relevant information that might be expected to assist the case for the prosecution of an accused person.

The Regulation extends the repeal of section 6A by a further 6 months. This provision allows the ICAC to use evidence obtained from a third party with the use of a surveillance device, which would otherwise be unlawful under Part 2 of the *Surveillance Devices Act 2007*. The Committee is concerned that in using such evidence, it may lead to the prosecution of individuals on the basis of unlawfully obtained evidence. Normally, evidence that has been unlawfully obtained would be inadmissible under the rules of evidence.

The Committee also notes that it is unclear whether the Director of Public Prosecutions can provide directions under the ICAC's wide powers of investigation. Therefore, the Committee is concerned about the potential impact of the Regulation on individuals' right to procedural fairness. For these reasons, the Committee refers the matter to Parliament for consideration.

Form or intention calls for elucidation: s 9(1)(b)(vii) of the LRA

Timing and retrospectivity

- 3.12 The Regulation is made under section 59(2) of the Act. Section 59(3) provides that regulations made under section 59(2) only take effect on and from the expiry of the period during which either House may disallow a regulation under the *Interpretation Act 1987*.
- 3.13 However, clause 2 of the Regulation states that it commences 'on the day on which this regulation is published on the NSW legislation website'. The Regulation was published on the NSW legislation website on 13 March 2026.
- 3.14 According to section 41(1) of the *Interpretation Act 1987*, either House may disallow a regulation at any time:
- before the relevant written notice is laid before the House, or

- after the relevant written notice is laid before the House, but only if notice of the resolution was given within 15 sitting days of the House after the relevant written notice was given.

Under section 59(3) of the *Surveillance Devices Act 2007*, the Regulation takes effect from the expiry of the period in which either House of Parliament may disallow it. Members of Parliament have until 2 June 2026 (including reserve sitting days) in the Legislative Assembly and 23 June 2026 in the Legislative Council to give notice of a motion to disallow the Regulation. If notice is given during this time, the Regulation will remain disallowable until the notice is dealt with.

However, clause 2 of the Regulation states that it commences ‘on the day on which it is published on the NSW legislation website’, which was 13 March 2026. The Committee notes that this conflicts with section 59(3) of the Act. As such, it is not clear when the extension of the exemption would take effect. For these reasons, the Committee refers the matter to Parliament for further clarity on the timing and applicability of the Regulation.



Part Three – Regulations without comment

Regulations without comment

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

1. [Police Regulation 2025](#)

The object of the Regulation is to repeal and remake, with changes, the Police Regulation 2015, which would otherwise be repealed on 1 September 2026 by the *Subordinate Legislation Act 1989*, section 10A(1).

In particular, the Regulation provides for the following:

- (a) the appointment, promotion and management of police officers
- (b) the appointment of administrative officers and temporary employees
- (c) administrative matters in relation to police officers, administrative officers and temporary employees
- (d) the consumption of alcohol and the use of prohibited drugs
- (e) leave entitlements for police officers, administrative employees and senior executives
- (f) a police officer support scheme regarding—
 - (i) payments to or in relation to police officers that constitute death benefits
 - (ii) payments to or in relation to police officers who become permanently or temporarily incapacitated for work because of an on duty injury
 - (iii) payments to or in relation to police officers who become permanently or temporarily incapacitated for work because of an off duty injury
- (g) recognised law enforcement officers
- (h) savings and formal matters.

The Regulation is made under the *Police Act 1990*, including sections 12, 13, 73, 80, 128, 173, 174, 181E, 199C, 199D, 199F, 204A, 207D, 207E, 208, 209, 211A, 211AA, 211B, 216AA and 219, the general regulation-making power.

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

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

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

2. 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Regulation 2025

The objects of the Regulation are:

- (a) to make amendments consequential on the enactment of the *24-Hour Economy Legislation Amendment (Vibrancy Reforms) Act 2025*
- (b) to provide for the suspension or revocation of a competency card
- (c) to remove a fee for an application for certain boundary changes
- (d) to change the number of live music performances required for licensed premises to be a live music venue
- (e) to repeal provisions about special licence conditions that apply in prescribed precincts
- (f) to provide for exceptions in relation to incident registers when music festivals are being held.

The Regulation is made under the *Liquor Act 2007* and the *Gaming and Liquor Administration Act 2007* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

3. Customer Service Legislation Amendment Regulation 2026

The object of the Regulation is to amend:

- (a) the Associations Incorporation Regulation 2022 to support the deemed recognition model in the *Customer Service Legislation Amendment Act 2024*, Schedule 1
- (b) the Charitable Fundraising Regulation 2021 to provide for:
 - (i) support of the deemed recognition model in the *Customer Service Legislation Amendment Act 2024*, Schedule 2
 - (ii) compliance with the National Fundraising Principles as a condition of an authority to conduct a fundraising appeal
 - (iii) other minor and formal matters.

The Regulation is made under *Associations Incorporation Act 2009* and the *Charitable Fundraising Act 1991* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

4. Liquor Amendment (Miscellaneous) Regulation 2026

The objects of the Regulation are to:

- (a) update a reference to a department
- (b) clarify the requirements for a venue to be a live music venue for the *Liquor Act 2007* (the **Act**)
- (c) exempt, in certain circumstances, the sale or supply of liquor at residential land lease communities from the provisions of the Act.

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

5. [Legal Profession Uniform Law Application Act 2014—NSW Admission Board Eighth Amendment Rule 2025](#)

The object of the Rule is to make consequential amendments to a number of rules to align those rules with the amendments made to rule 11 of the Legal Profession Uniform Admission Rules 2015 by the Legal Profession Uniform Admission Amendment (Qualifications) Rule 2025.

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

6. [Legal Profession Uniform Law Application Act 2014—NSW Admission Board Ninth Amendment Rule 2025](#)

The object of the Rule is to transfer from the Board’s Legal Qualifications Committee to its Examinations Committee the power to make decisions about advanced standing to be granted to students-at-law undertaking the Board’s Diploma in Law course for persons who are not overseas lawyers, as well as to make decisions granting leave to students-at-law seeking to take subjects at law schools outside of the Board’s course.

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

7. [Legal Profession Uniform Law Application Act 2014—NSW Admission Board Tenth Amendment Rule 2025](#)

The object of the Rule is to vary the composition of the Examinations Committee and to add a heading to Rule 27A.

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

8. [Legal Profession Uniform Law Application Act 2014—NSW Admission Board \(Third Fees\) Rule 2025](#)

The object of the Rule is to introduce a fee for student misconduct reports that are applied for by persons who have sat the Legal Profession Admission Board’s examinations and are seeking admission.

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

9. [Public Notaries Act 1997—Public Notaries Appointment Third Amendment Rule 2025](#)

The object of the Rule is to amend Form 6, the annual form required to be lodged by public notaries to update their relevant details pursuant to rule 12 of the Public Notaries Appointment Rules, to remove the need to provide a DX number and to require the provision of a mobile phone number, mailing and email address.

The Rule is made under the *Public Notaries Act 1997* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

10. [Education and Care Services National Amendment Regulations 2026](#)

The Regulations make changes to the child protection and safety training systems, including introducing new penalties for breaches.

The Regulations are made under sections 301 and 324 of the Education and Care Services National Law as applied by the law of the States and Territories. They do not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

11. [Environmental Planning and Assessment Amendment \(State and Regionally Significant Development\) Regulation 2026](#)

The object of the Regulation is to amend the Environmental Planning and Assessment Regulation 2021 to provide that the environmental assessment requirements for a development application for development that is declared by Ministerial planning order to be State significant development and includes residential accommodation expire 9 months after the responsible person receives notice of the requirements.

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

12. [Fisheries Management \(General\) Amendment \(Possession Limits\) Regulation 2026](#)

The object of the Regulation is to amend the Fisheries Management (General) Regulation 2019 to clarify and further provide for the defences to a prosecution for the offence of contravening a possession limit for fish specified in the regulation, Part 2, Division 2 and Schedule 1.

The Regulation is made under the *Fisheries Management Act 1994* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

13. [Government Sector Finance Amendment \(Prescribed Government Officers\) Regulation 2026](#)

The object of the Regulation is to prescribe certain persons as government officers for the *Government Sector Finance Act 2018*.

The Regulation is made under the *Government Sector Finance Act 2018*, including sections 2.9(1)(e) and 10.4, the general regulation-making power. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

14. [Local Government \(General\) Amendment \(Minimum Amounts of Rate\) Regulation 2026](#)

The object of the Regulation is to increase the limit on the minimum amount of an ordinary council rate under the *Local Government Act 1993*, section 548(3)(a) from \$639 to \$655.

The Regulation is made under the *Local Government Act 1993* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

15. [Environmental Planning and Assessment Amendment \(Planning System Reforms\) Regulation 2026](#)

The objects of the Regulation are to:

- (a) make a number of minor amendments to clarify the operation of existing provisions in the regulation
- (b) insert savings and transitional provisions relating to the modification of development consents, appeals and reviews.

The Regulation is made under the *Environmental Planning and Assessment Act 1979* and does not appear to engage with any of 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. 44

TIME & DATE: 3:05PM, 23 MARCH 2026

LOCATION: ROOM 1136 AND
VIDEOCONFERENCE

MEMBERS PRESENT

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

APOLOGIES

Ms Munro.

OFFICERS PRESENT

Rohan Tyler, Carly McKenna, Charlie King, Natasha Moir, Alex Read, 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 16 March 2026 be confirmed.

2. ***

3. Consideration of bills with comment for Legislation Review Digest 43/58

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

- a) Crimes Legislation Amendment (Hate Crimes) Bill 2026
- b) Crimes Amendment (Prohibited Organisation Symbols) Bill 2026
- c) Education Amendment (School Community Safety) Bill 2026
- d) Electoral Legislation Amendment (Elections) Bill 2026
- e) Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026
- f) Water NSW Amendment (Warragamba Dam) Bill 2026.

Resolved, on the motion of Mr Murphy:

That the following words be inserted on page 33, after paragraph 3.4:

Aboriginal land claims - procedural fairness

- 3.5. Section 36 of the *Aboriginal Land Rights Act 1983* (the **Land Rights Act**) allows Aboriginal Land Councils to make claims for Crown land that is 'not lawfully used or occupied'.

- 3.6. Proposed section 5.20B(1) allows the Minister to declare holdings over Crown land to be valid if the Minister is 'reasonably satisfied making the declaration is in the public interest'.
- 3.7. Proposed section 5.20B(4) states that 'the granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act.'
- 3.8. Proposed section 3.28(1) allows a Crown land manager to grant a 'secondary interest', including a lease, if satisfied that doing so would meet criteria specified by regulations.
- 3.9. Proposed section 3.29 allows the Minister to validate a secondary interest that was not validly granted under section 3.28. The Minister's validation would retrospectively apply to the date the interest was originally intended to be granted.

The Bill would insert section 5.20B(4) into the *Crown Land Management Act 2016*, which states that 'the granting of a lease under a Crown Land Act constitutes a lawful use for the purposes of another Act'. This provision would effectively extinguish Aboriginal Land Council claims under the *Aboriginal Land Rights Act 1983*, where that land is subject to a lease. In doing so, it would also override the recent decision of the High Court of Australia in *La Perouse Local Aboriginal Land Council v Quarry Street Pty Ltd [2025] HCA 23*, which held that land must be actually used, and not just held under lease, to exclude Crown land from Aboriginal land claims.

The *Aboriginal Land Rights Act 1983* is the legislative foundation upon which land is returned to Aboriginal communities to enable economic, social and cultural outcomes. The Committee notes that the Bill would therefore undermine Aboriginal peoples' right to the lands, territories and resources that they have traditionally owned, occupied or otherwise used. These rights are codified at Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples, which Australia has endorsed.

Additionally, proposed section 3.28(1) would allow a Crown land manager to grant leases subject to regulations. If a Crown land manager has invalidly granted a lease under section 3.28(1), the Minister could retrospectively validate that lease under proposed section 3.29. These provisions would introduce broad retrospective powers to validate unlawful tenures and, therefore, extinguish Aboriginal land claims without any stated policy rationale. This would further impact on procedural fairness for Aboriginal Land Councils in making claims for unused Crown Land. For these reasons, the Committee refers the issue to Parliament for consideration.

That the Committee adopts the following draft bill report, as amended:

- a) Crown Land Management Amendment (Statutory Review) Bill 2026.

4. Consideration of bills without comment for Legislation Review Digest 43/58

Resolved, on the motion of Mr Hagarty: That the Committee adopts the following draft report without comment:

- a) Road Legislation Amendment (E-Bike Regulation) Bill 2026.

5. Consideration of regulations with comment for Legislation Review Digest 43/58

Resolved on the motion of Mr Layzell: That the Committee adopts the following draft reports with comment *in globo*:

- a) Crimes (Administration of Sentences) Amendment (Exempt Persons) Regulation 2026
- b) Major Events Amendment (Israeli Presidential Visit) Regulation 2026
- c) Surveillance Devices Amendment (ICAC) Regulation 2026.

6. Regulations without comment for Legislation Review Digest 43/58

Resolved, on the motion of Ms Higginson: That the Committee adopts the regulations without comment as Part Three to Digest No. 43/58.

7. Legislation Review Digest 43/58

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. 43/58, as amended, and that it be signed by the Chair and presented to the House.

8. Regulations to be reviewed

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

Resolved, on the motion of Ms Davis: That the Committee consider all regulations and statutory instruments that are currently subject to disallowance (tabled 10 February and 17 March 2026), even if the relevant regulations have been disallowed by the time the next Digest is adopted.

9. Next meeting

The Committee adjourned at 3.09pm until Monday 4 May 2026.