

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. Building (Approvals and Practitioners) Bill 2026

Issue identified	Conclusion of Committee
Wide regulatory powers impacting property rights	Referred
Wide regulatory powers impacting privacy rights	Referred
Wide regulatory powers impacting the privilege against self-incrimination	Referred
Procedural fairness - Extension of usual limitation period for commencement of proceedings	Referred
Substantive matters deferred to regulations	Referred
Henry VIII provision	Referred
Wide delegation of functions to classes of unknown persons	Referred
Commencement by proclamation	Referred
Incorporation of extrinsic material and adoption of provisions in standards and other documents	Referred

### 2. Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2026

Issue identified	Conclusion of Committee
Commencement by proclamation	Referred

### 3. Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment

### 4. Fair Trading Amendment (24-Hour Fuel Price Lock) Bill 2026\*

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment
Wide regulation-making powers	No further comment

### 5. Fair Trading Amendment (FuelCheck) Bill 2026

Issue identified	Conclusion of Committee
No issues identified	

### 6. Local Land Services Amendment (Private Native Forestry) Bill 2026\*

Issue identified	Conclusion of Committee
Inconsistency of laws impacting obligation to obtain development consent	Referred

### **7. Prevention of Cruelty to Animals Amendment (Enforcement and Operational Powers) Bill 2026**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
Strict liability offences with custodial penalties	Referred

### **8. Statute Law (Miscellaneous Provisions) Bill 2026**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
No issues identified	

## **PART TWO – REGULATIONS WITH COMMENT**

### **1. Crimes (Administration of Sentences) Amendment (Classification of Inmates) Regulation 2026**

<b>Issue identified</b>	<b>Conclusion of Committee</b>
Classification of male and female inmates contrary to gender identity	Referred

# Summary of Conclusions

## PART ONE – BILLS

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### 1. Building (Approvals and Practitioners) Bill 2026

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

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##### *Wide regulatory powers impacting property rights*

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Part 6 of the Bill, which relates to investigations under the proposed Act, would confer wide and substantial coercive powers on authorised officers. These powers include the authority to enter non-residential premises without a warrant, to examine, inspect and destructively test things on those premises, and to seize and subsequently destroy items that are no longer required as evidence. In particular, proposed section 156 would allow for reasonable force to destroy property to access a thing that is required in the process of an investigation, and to destructively test the thing or a sample of it, if that is a reasonable test in the circumstances. Proposed section 157 would also allow the seizure of things, which could then be destroyed or disposed of under section 161, without compensation being made to the owner of the property.

The Committee acknowledges that the Bill contains some safeguards in relation to the exercise of these powers. For example, entry to residential premises without the occupier's consent would require the authority of a search warrant. The Committee also understands that the investigation and enforcement powers provided for under Subdivision 2 are intended to support the legitimate objective of enhancing the regulatory oversight of the building industry and the operational effectiveness of the regulator.

However, the Committee notes that the entry powers in relation to non-residential premises may be exercised without a warrant for the purpose of determining compliance with the Act. The grounds for exercising these powers are therefore broadly defined. The Committee notes that the Bill would also allow for the seizure and destruction of property without any requirement for judicial authorisation, and with no requirement for the owner to be compensated, which may significantly impact on individual property rights. For these reasons, the Committee refers the matter to Parliament for consideration.

##### *Wide regulatory powers impacting privacy rights*

---

The Bill would provide an authorised person with wide regulatory powers that may impact on the privacy rights of individuals. For example, proposed section 146 would enable an authorised person to compel and collect documents, and proposed section 149 would enable an authorised person to record a person answering questions under the relevant division. Proposed section 185 would also allow the disclosure or improper use of information in prescribed circumstances, including for disciplinary or legal proceedings. Additionally, proposed section 195 would allow the Secretary to enter into an information-sharing arrangement with relevant agencies, which may include entities prescribed by the regulations.

The Committee understands that information-sharing arrangements between regulatory agencies may be a common feature of frameworks of this kind. However, the Bill provides no constraints on the purposes for which shared information may be used or the classes of agency with whom it may be shared. This means that the breadth of the information-sharing power under proposed section 195 would be defined by the Executive. The Committee generally prefers that matters

such as these are included in primary legislation because of the potentially significant impact on the privacy rights of individuals.

The Committee also notes that the exercise of information-gathering powers in a regulatory context, including the power to compel the production of information and documents, may involve the collection of sensitive personal and commercial information about individuals and businesses operating in the building industry. The Committee further notes that recordings of compelled answers may be made despite the provisions of any other law. This, in effect, would remove protections that would otherwise be available under other legislation, including the *Privacy and Personal Information Protection Act 1998*. For these reasons, the Committee refers the matter to Parliament for consideration.

#### *Wide regulatory powers impacting the privilege against self-incrimination*

The Bill would allow an authorised officer to compel an individual to answer questions and produce documents under proposed sections 146 and 147. Failure to comply with a direction under either of these sections would be an offence with a maximum penalty of a \$66,000 fine (600 penalty units) for an individual. Proposed section 148 expressly provides that a person is not excused from providing relevant information on the ground that the information may incriminate, or make liable to a penalty, that person or another person (including a body corporate). The Bill may therefore abrogate an individual's privilege against self-incrimination.

The common law privilege against self-incrimination allows a person to refuse to answer any question, or produce anything, if doing so would expose the person to a penalty. This privilege is necessary to preserve the presumption of innocence and to ensure that the burden of proof remains on the prosecution.

The Committee acknowledges that the requirement to answer questions and produce documents is intended to ensure the effective regulatory oversight of the building industry, it being an industry with a well-documented history of compliance failures that have caused significant harm to the public. The Committee also notes that proposed section 148(2) would make compelled information inadmissible against an individual in criminal or civil proceedings. However, section 148(3)(b) would expressly allow compelled information to be used as a basis for disciplinary action under Part 5, including proceedings against the individual who provided the relevant information. The requirement to give information under the proposed Act may therefore expose individuals to significant penalties in a disciplinary context. For this reason, the Committee refers the issue to Parliament for consideration.

#### *Procedural fairness – Extension of usual limitation period for commencement of proceedings*

Proposed section 188 would extend the standard limitation period for summary proceedings, under the *Criminal Procedure Act 1986*, from 6 months to 3 years from the date of the alleged offence.

The Committee acknowledges that offences arising under building regulatory legislation may not always be immediately discoverable. For example, defects in building work may remain concealed for a long period of time. However, the Committee notes that the extended 3 year limitation period applies to all offences under the Act, and is not confined to circumstances where the offence was not reasonably discoverable within the standard period.

The standard limitation period for summary offences serves an important rule of law function. It protects individuals from being required to answer historical allegations, and provides a degree of certainty to persons about the extent of their ongoing criminal exposure. The extension of the

limitation period, from 6 months to 3 years, is a significant departure from the standard position under the *Criminal Procedure Act 1986*. For these reasons, the Committee refers the matter to Parliament for consideration.

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

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#### *Substantive matters deferred to regulations*

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The Bill seeks to establish a new legislative framework with a range of substantive matters that would be deferred to the regulations. For example, the regulations would be able to alter key definitions, including 'building element', 'building work' and 'registered work', which are central to the legislative framework. Additionally, the regulations would be able to prescribe 'relevant offences' that may impact a person's ability to carry out registered work, as well as the time in which a person can appeal against a refusal to issue a building approval or completion approval. The Committee generally prefers that substantive matters are set out in primary legislation to ensure an appropriate level of parliamentary oversight.

The Committee acknowledges that regulatory frameworks of this nature routinely require supplementary detail to be prescribed by regulations, and that the building approval context involves considerable technical complexity that may be more appropriately addressed through subordinate legislation. The Committee also notes that regulations made under the Act would be subject to disallowance under section 41 of the *Interpretation Act 1987*, which may provide a measure of parliamentary oversight.

However, many of the substantive matters deferred to the regulations are matters upon which the legislative framework depends, and which may materially impact rights and obligations. For example, the regulations would be able to apply a different version of the Building Code to a building approval than the version that was in force when the application was made, which may significantly impact compliance obligations. The regulations would also be able to prescribe 'relevant offences' that would affect a person's right to undertake 'registered work', which would effectively allow the regulations to exclude a class of persons from the profession. Cumulatively, the delegation of these substantive matters to the regulations may make it difficult for individuals to ascertain the scope of their rights and obligations from the Act itself. For these reasons, the Committee refers the matter to Parliament for consideration.

#### *Henry VIII provision*

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Proposed section 46 expressly provides that Subdivision 3, which provides for Crown building work, may be modified by the regulations. This is a clear Henry VIII provision, as it would allow the Executive to directly amend the parent Act by regulation, without reference to Parliament. The Committee generally considers Henry VIII provisions in Bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee acknowledges that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, it also notes that the scope of this particular Henry VIII provision is particularly broad, as it relates to the entire subdivision. This means that regulations made under the proposed provision may substantially modify the definition of Crown building work, and may alter, expand, reduce or even remove the relevant approval requirements applicable to this building work. For these reasons, the Committee refers the issue to Parliament for consideration.

*Wide delegation of functions to classes of unknown persons*

---

Proposed section 196 of the Bill would permit the delegation and sub-delegation of ministerial and secretarial functions, subject to the terms of the instrument of delegation. The functions of the Minister and the Secretary under the proposed Act are substantial. The Secretary's functions extend across the entire regulatory scheme, including the granting, variation, suspension and cancellation of registrations under Part 4, the initiation of disciplinary proceedings under Part 5, the conducting of investigations, audits and the issuing of warning notices under Part 7, and the acceptance of undertakings and entry into information-sharing arrangements under Parts 7 and 9.

The Committee notes that the class of persons to whom these functions and sub-delegated functions may be given is not exhaustively defined in the Bill, and proposed sections 196(1)(b) and 196(2)(b) would allow the delegation of functions to 'a person prescribed by the regulations'. The Bill would therefore provide for the wide delegation of statutory functions to classes of unknown persons. This may enable private individuals to perform functions that may be expected to be performed by public officials or authorities. The Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity, as well as greater oversight of the exercise of those functions.

The Committee acknowledges that allowing regulations to prescribe who may exercise delegated functions may allow for more flexibility in the administration of the regulatory framework. However, in this case, the Secretary's functions extend across the scheme and may significantly impact rights and obligations under the Act. For this reason, the Committee refers the issue to Parliament for consideration.

*Commencement by proclamation*

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The Act would commence on a day or days to be appointed by proclamation, with the exception of Schedule 3, items 20 and 45, which would commence on the date of assent. The Committee generally prefers legislation to commence on a fixed date or on assent to provide certainty for affected persons, particularly where the legislation affects individual rights and liberties. Commencement by proclamation effectively delegates the role of the Parliament in determining when legislation commences to the Executive.

The Committee acknowledges that there may be practical reasons for allowing a flexible start date, such as providing time for the industry to establish administrative procedures necessary to implement the Bill's provisions. However, given the significance of the proposed provisions and their potential impact on individuals' rights and obligations, the Committee considers that the provisions should have a clear start date to provide certainty to those affected. For these reasons, the Committee refers the matter to Parliament for consideration.

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

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*Incorporation of extrinsic material and adoption of provisions in standards or other documents*

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The Bill would require all design and building work to comply with the National Construction Code. Proposed section 7(3)(b) would also allow the regulations to modify the National Construction Code by adopting provisions in 'standards or other documents'.

The Committee acknowledges that the National Construction Code is an established instrument in Australian building regulation. It is consistent with the approach taken across other jurisdictions

to respond to evolving technical standards without requiring primary legislative amendment each time the Code is updated.

However, by allowing the regulations to modify the Code by adopting provisions in standards or other documents, the Bill may allow for the incorporation of a range of external instruments. The term 'standards or other documents' is extremely broad and may encompass instruments prepared by entities that are not subject to parliamentary scrutiny and cannot be disallowed under section 41 of the *Interpretation Act 1987*. The legal obligations imposed on persons in the building industry under the Act may therefore be shaped, in part, by the content of documents over which Parliament exercises no direct oversight.

The Committee generally prefers that substantive matters of this kind are set out in primary legislation where they can be subjected to parliamentary scrutiny, particularly where they may impose substantive obligations on a person. For this reason, the Committee refers the matter to Parliament for consideration.

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## **2. Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2026**

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

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#### *Commencement by proclamation*

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Schedules 1 and 2 of the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions. This is particularly important where those provisions can impact personal rights and liberties.

The Committee acknowledges that a flexible commencement date is required to enable the necessary administrative changes to be implemented to support the new offence framework. However, in this case, the Bill would create new offences that carry custodial penalties, which may impact an individual's rights and liberties. For this reason, the Committee refers the issue to Parliament for consideration.

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## **3. Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026**

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

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#### *Commencement by proclamation*

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The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions. However, the Committee acknowledges that a flexible starting date may be necessary to develop the relevant administrative frameworks. In the circumstances, the Committee makes no further comment.

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#### 4. Fair Trading Amendment (24-Hour Fuel Price Lock) Bill 2026\*

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

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###### *Commencement by proclamation*

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The Bill would commence on a day or days to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

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

###### *Wide regulation-making powers*

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The Bill would insert section 58(2) into the *Fair Trading Act 1987*, which would allow regulations to exempt a person from the whole or part of Division 6. Division 6 establishes the fuel price reporting framework, including a number of offences under proposed sections 57C, 57D(1), 57D(2), 57E(1) and 57F.

This wide regulation-making power would allow the regulations to significantly limit the application or operation of the fuel price reporting framework, without reference to Parliament. The Committee generally comments on wide regulation-making powers that delegate legislative power in respect to matters that are substantive and not just administrative in nature. It generally prefers that such matters are specified in primary legislation.

However, the Committee acknowledges that these kinds of regulation-making powers are not uncommon, as they may allow for more flexible regulatory responses. The Committee also recognises that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.

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#### 5. Fair Trading Amendment (FuelCheck) Bill 2026

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

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#### 6. Local Land Services Amendment (Private Native Forestry) Bill 2026\*

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

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###### *Inconsistency of laws impacting obligation to obtain development consent*

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The Bill seeks to amend the *Local Land Services Act 2013* (the LLS Act) and the Standard Instrument (Local Environmental Plans) Order 2006 so that forestry operations authorised by the LLS Act are permitted without development consent under the *Environmental Planning and Assessment Act 1979* (the EP&A Act). Proposed subsection 60ZZD(b) of the LLS Act also provides that environmental planning instruments made under the EP&A Act have no effect to the extent that they require development consent for forestry operations authorised under the LLS Act. The Committee generally comments on provisions that may be inconsistent with 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 intent of the Bill may be to reduce duplication within the regulatory framework governing private native forestry operations. However, subsection 3.20(4) of the EP&A Act provides that when a standard instrument is amended after it is adopted by an environmental planning instrument, that environmental planning instrument is taken to adopt those changes without any further amendments being made. This may create further confusion for individuals as to the relevant consent requirements that apply under an environmental planning instrument. For these reasons, the Committee refers the matter to Parliament for consideration.

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## **7. Prevention of Cruelty to Animals Amendment (Enforcement and Operational Powers) Bill 2026**

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

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#### *Strict liability offences with custodial penalties*

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The Bill seeks to introduce a number of new strict liability offences into the *Prevention of Cruelty to Animals Act 1979*. The new offences under proposed sections 7A(2), 71(3), 10(5), 21BA and 24QC all relate to preventing animal cruelty and carry potential custodial penalties. For example, proposed section 7A(2) would prohibit a person from leaving a dog unattended in a vehicle for more than 10 minutes unless the vehicle is adequately cooled. Failure to comply with the provision would carry a maximum penalty of a \$44,000 fine (400 penalty units), or 1 year imprisonment, or both, for an individual.

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. The Committee acknowledges that strict liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would carry potential custodial penalties and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. For this reason, the Committee refers the matter to Parliament for consideration.

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## **8. Statute Law (Miscellaneous Provisions) Bill 2026**

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

## **PART TWO – REGULATIONS WITH COMMENT**

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### **1. Crimes (Administration of Sentences) Amendment (Classification of Inmates) Regulation 2026**

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

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#### *Classification of male and female inmates contrary to gender identity*

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The Regulation amends the Crimes (Administration of Sentences) Regulation 2014 to insert clause 3A, which provides for the classification of inmates as male or female, and sets out factors that may be considered when making such a decision. Clause 3A(2) states that it is not necessary for this decision to be consistent with the sex of the inmate as recorded in a birth certificate or

other identity document, the gender identity of the inmate, or the external physical sex characteristics of that inmate.

The Regulation may therefore explicitly permit the classification of an inmate, as a male or female inmate, that is inconsistent with the inmate's own gender identity, and potentially inconsistent with their legal sex. For example, an inmate may be classified as a male inmate, despite identifying as a woman and despite having changed the sex on their birth certificate to female. Denying an inmate's gender identity may impact their right to be treated with dignity and respect, as set out under Article 10 of the International Covenant on Civil and Political Rights.

The Committee acknowledges that the decision regarding a person's classification as a male or female inmate may consider risks to the safety of the inmate or others. However, the Committee notes that these are not mandatory considerations, and there remains considerable discretion around the decision-making process, with no requirement to give reasons for a decision. The Committee also notes that the classification of an inmate as a male or female inmate has significant implications for the exercise of powers against that person under the Regulation, including who can strip-search them. This may further impact on an inmate's right to privacy, dignity and bodily autonomy. For these reasons, the Committee refers the issue to Parliament for consideration.

# Part One – Bills

# 1. Building (Approvals and Practitioners) Bill 2026

Date introduced	6 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Anoulack Chanthivong

## Purpose and description

- 1.1 The objects of the Bill are as follows:
- (a) to establish a framework for the approval and oversight of building work, including work involving prefabricated buildings
  - (b) to provide that certain work may be carried out only under a registration (**registered work**) and to establish a registration process for registered work
  - (c) to enable the Secretary of the Department of Customer Service (the **Secretary**) to take disciplinary action against persons who are registered
  - (d) to enable the appointment of authorised officers, who are responsible for investigating, monitoring and enforcing the requirements of the proposed Act and the regulations
  - (e) to set out additional powers of the Secretary under the proposed Act
  - (f) to establish a duty of care owed by persons who carry out construction work requiring the persons to take reasonable care to avoid defects arising from the construction work
  - (g) to set out additional miscellaneous matters relating to the administration of the proposed Act
  - (h) to make consequential amendments to other Acts.

## Background

- 1.2 The Bill seeks to establish a new legislative framework for the approval and oversight of building work in NSW, which would be administered under the proposed Act.
- 1.3 The Bill would:
- provide for the approval and oversight of building work through a consolidated scheme, which would integrate the design and building declaration requirements established under the *Design and Building Practitioners Act 2020*
  - require the registration of persons who carry out work within the building approval and certification sector (**registered work**)

- establish disciplinary and enforcement mechanisms to improve the quality of building construction, promote public confidence in the quality of building construction, and ensure that design and building work complies with the National Construction Code.
- 1.4 In his second reading speech, the Hon Anoulack Chanthivong MP, Minister for Building, stated that the Bill would ' ... fundamentally reshap[e] the building approval process to be a modern, efficient, and digitally capable system that supports homes being built.'
- 1.5 The Minister explained that the Bill would support ' ... productivity while retaining necessary oversight and safeguards to maintain quality ... ', by ensuring that ' ... critical elements of a building such as the structure, enclosure, fire safety systems and waterproofing are designed by suitably skilled and registered practitioners.'
- 1.6 The Minister added:
- For the first time, a prefabricated dwelling will receive the same regulatory treatment as any other dwelling. As the public rightly expects, the bill reiterates the clear outcome that buildings in New South Wales comply with the Building Code of Australia, more commonly known as the BCA. The BCA sets the accepted minimum standards for the safety, health, amenity, accessibility and sustainability of buildings.

## Issues considered by the Committee

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

#### *Wide regulatory powers impacting property rights*

- 1.7 Part 6 of the Bill, which relates to investigations, would confer substantial coercive powers on authorised officers. Under proposed section 141, an authorised officer may be appointed by the Secretary and can include a person prescribed by the regulations.
- 1.8 Proposed section 150 would empower an authorised officer to enter premises, excluding a part of premises used only for residential purposes, without a warrant. The authorised officer would be permitted to enter the premises for the purpose of exercising functions under Part 6, and once on the premises, the officer would be able to exercise any power specified in Part 6, Subdivision 2. For example:
- proposed section 156 would allow the authorised officer to conduct examinations, inspections and take photographs or other recordings that the authorised officer considers necessary. Under subsection 156(2) the authorised officer would be allowed to use reasonable force to break open or otherwise access a thing, including a floor or wall containing it. Proposed subsection 156(3) further provides that the power to test a thing includes a power to destructively test the thing or a sample of it, if that is a reasonable test in the circumstances.
  - proposed section 157 would allow the authorised officer to seize things that they have reasonable grounds to believe are connected with a contravention of the proposed Act or the regulations. Proposed section 161 provides for the destruction and disposal of seized things and expressly provides that no compensation is payable for the destruction or disposal of the thing.

- proposed section 158 provides that the officer may do ‘anything else’ authorised under the proposed Act and regulations and anything for an ‘authorised purpose’ that the officer reasonably believes is necessary.

**Part 6 of the Bill, which relates to investigations under the proposed Act, would confer wide and substantial coercive powers on authorised officers. These powers include the authority to enter non-residential premises without a warrant, to examine, inspect and destructively test things on those premises, and to seize and subsequently destroy items that are no longer required as evidence. In particular, proposed section 156 would allow for reasonable force to destroy property to access a thing that is required in the process of an investigation, and to destructively test the thing or a sample of it, if that is a reasonable test in the circumstances. Proposed section 157 would also allow the seizure of things, which could then be destroyed or disposed of under section 161, without compensation being made to the owner of the property.**

**The Committee acknowledges that the Bill contains some safeguards in relation to the exercise of these powers. For example, entry to residential premises without the occupier's consent would require the authority of a search warrant. The Committee also understands that the investigation and enforcement powers provided for under Subdivision 2 are intended to support the legitimate objective of enhancing the regulatory oversight of the building industry and the operational effectiveness of the regulator.**

**However, the Committee notes that the entry powers in relation to non-residential premises may be exercised without a warrant for the purpose of determining compliance with the Act. The grounds for exercising these powers are therefore broadly defined. The Committee notes that the Bill would also allow for the seizure and destruction of property without any requirement for judicial authorisation, and with no requirement for the owner to be compensated, which may significantly impact on individual property rights. For these reasons, the Committee refers the matter to Parliament for consideration.**

*Wide regulatory powers impacting privacy rights*

- 1.9 Proposed section 146 would empower an authorised officer to require a person to produce documents or other things in the person's custody or under the person's control that are connected with an authorised purpose.
- 1.10 Proposed section 149 would empower an authorised officer to make a record of a person answering questions under Part 6, provided that the officer informs the person that a record will be made and a copy of the record is given to the person as soon as practicable after it is made. Proposed subsection 149(3) provides that the record may be made despite the provisions of any other law.
- 1.11 Proposed section 185 would make it an offence to disclose or make improper use of information obtained in connection with the administration or execution of the Act or the regulations. However, the provision simultaneously authorises disclosure in prescribed circumstances, such as for the purposes of disciplinary or legal proceedings arising out of the proposed Act or in connection with the administration or execution of the Act or the regulations.

- 1.12 Proposed section 195 would empower the Secretary to enter into information-sharing arrangements with relevant agencies to enable the exchange of information obtained under the Act. Subsection 195(5) provides a list of agencies, defined as a 'relevant agency', with which information may be shared. Subsection 195(5)(k) allows for the extension of this list by regulations. Subsections 195(3) and (4) also provide that the type of information shared can be prescribed by regulations.

**The Bill would provide an authorised person with wide regulatory powers that may impact on the privacy rights of individuals. For example, proposed section 146 would enable an authorised person to compel and collect documents, and proposed section 149 would enable an authorised person to record a person answering questions under the relevant division. Proposed section 185 would also allow the disclosure or improper use of information in prescribed circumstances, including for disciplinary or legal proceedings. Additionally, proposed section 195 would allow the Secretary to enter into an information-sharing arrangement with relevant agencies, which may include entities prescribed by the regulations.**

**The Committee understands that information-sharing arrangements between regulatory agencies may be a common feature of frameworks of this kind. However, the Bill provides no constraints on the purposes for which shared information may be used or the classes of agency with whom it may be shared. This means that the breadth of the information-sharing power under proposed section 195 would be defined by the Executive. The Committee generally prefers that matters such as these are included in primary legislation because of the potentially significant impact on the privacy rights of individuals.**

**The Committee also notes that the exercise of information-gathering powers in a regulatory context, including the power to compel the production of information and documents, may involve the collection of sensitive personal and commercial information about individuals and businesses operating in the building industry. The Committee further notes that that recordings of compelled answers may be made despite the provisions of any other law. This, in effect, would remove protections that would otherwise be available under other legislation, including the *Privacy and Personal Information Protection Act 1998*. For these reasons, the Committee refers the matter to Parliament for consideration.**

*Wide regulatory powers impacting the privilege against self-incrimination*

- 1.13 Proposed section 147 would empower an authorised officer to direct a person to answer questions about a matter if the officer reasonably suspects that the person knows about the matter and reasonably requires information about that matter for an authorised purpose. Failure to comply with a direction under this section would be an offence with a maximum penalty of a \$66,000 fine (600 penalty units) for an individual.
- 1.14 Proposed subsection 148(1), which relates to self-incrimination, expressly provides that a person is not excused from giving 'relevant information' on the ground that the information may incriminate, or make liable to a penalty, that person or another person, including a body corporate that has nominated the person to answer questions under section 147. Under subsection 148(4), to 'give relevant information' means giving a document under section 146 (discussed above) or answering a question under section 147.

- 1.15 Proposed subsection 148(2) provides that relevant information given by an individual is not admissible in evidence in criminal or civil proceedings against that individual. However, subsection 148(3) provides that relevant information given by an individual may be admissible in evidence in criminal or civil proceedings against a body corporate that has nominated the individual to answer questions. It also provides that relevant information given by an individual may be used as a basis for taking disciplinary action against a person under Part 5, including the individual who was required to give the relevant information.

**The Bill would allow an authorised officer to compel an individual to answer questions and produce documents under proposed sections 146 and 147. Failure to comply with a direction under either of these sections would be an offence with a maximum penalty of a \$66,000 fine (600 penalty units) for an individual. Proposed section 148 expressly provides that a person is not excused from providing relevant information on the ground that the information may incriminate, or make liable to a penalty, that person or another person (including a body corporate). The Bill may therefore abrogate an individual's privilege against self-incrimination.**

The common law privilege against self-incrimination allows a person to refuse to answer any question, or produce anything, if doing so would expose the person to a penalty. This privilege is necessary to preserve the presumption of innocence and to ensure that the burden of proof remains on the prosecution.

The Committee acknowledges that the requirement to answer questions and produce documents is intended to ensure the effective regulatory oversight of the building industry, it being an industry with a well-documented history of compliance failures that have caused significant harm to the public. The Committee also notes that proposed section 148(2) would make compelled information inadmissible against an individual in criminal or civil proceedings. However, section 148(3)(b) would expressly allow compelled information to be used as a basis for disciplinary action under Part 5, including proceedings against the individual who provided the relevant information. The requirement to give information under the proposed Act may therefore expose individuals to significant penalties in a disciplinary context. For this reason, the Committee refers the issue to Parliament for consideration.

*Procedural fairness – Extension of usual limitation period for commencement of proceedings*

- 1.16 Proposed section 188(4) provides that proceedings for an offence against the Act or regulations must be commenced within 3 years after the date on which the alleged offence was committed, or at a later date that is less than 2 years after the notification date for the offence.
- 1.17 Proposed section 188(5) states that subsection (4) has effect despite the *Criminal Procedure Act 1986* or another Act. Under the *Criminal Procedure Act 1986*, the standard period for commencing summary proceedings is 6 months from the date on which the alleged offence was committed.

**Proposed section 188 would extend the standard limitation period for summary proceedings, under the *Criminal Procedure Act 1986*, from 6 months to 3 years from the date of the alleged offence.**

**The Committee acknowledges that offences arising under building regulatory legislation may not always be immediately discoverable. For example, defects in building work may remain concealed for a long period of time. However, the Committee notes that the extended 3 year limitation period applies to all offences under the Act, and is not confined to circumstances where the offence was not reasonably discoverable within the standard period.**

**The standard limitation period for summary offences serves an important rule of law function. It protects individuals from being required to answer historical allegations, and provides a degree of certainty to persons about the extent of their ongoing criminal exposure. The extension of the limitation period, from 6 months to 3 years, is a significant departure from the standard position under the *Criminal Procedure Act 1986*. For these reasons, the Committee refers the matter to Parliament for consideration.**

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

#### *Substantive matters deferred to regulations*

- 1.18 The Bill would defer a number of significant and substantive matters to the regulations. For example:
- proposed section 9(1) sets out what constitutes a 'building element', which is a defined category that includes fire safety systems, waterproofing, load-bearing structural components, building enclosure components, and mechanical, plumbing and electrical services. Proposed subsection 9(2) then provides that the regulations may exclude things from being building elements.
  - proposed section 10(1) defines 'building work' as physical activity involved in the erection of a building and any work prescribed by the regulations. Proposed subsection 10(2) further provides that the regulations may exclude work from being building work.
  - proposed section 13 defines 'registered work' as work that may be carried out only under a registration, and that the regulations may prescribe such work.
  - proposed subsection 22(2) provides that the regulations may apply a different version of the Building Code of Australia to a building approval than the version that is in force when the application is made. Proposed subsection 22(1)(d) requires that, for a building approval to be granted, the building work must comply with the Building Code as in force when the application is made or, for staged building work, when the application for the first stage is made.
  - proposed subsection 71(2) provides that the regulations may prescribe the time in which an appeal against a refusal to issue a building approval or completion approval must be made to the Land and Environment Court.
  - proposed section 93 provides that the Secretary may form the opinion that a person is not a suitable person to carry out registered work, if they have been convicted of a 'relevant offence' in the last 10 years. Proposed section 83 defines 'relevant offence' to include offences involving fraud or dishonesty and offences prescribed by the regulations.

The Bill seeks to establish a new legislative framework with a range of substantive matters that would be deferred to the regulations. For example, the regulations would be able to alter key definitions, including 'building element', 'building work' and 'registered work', which are central to the legislative framework. Additionally, the regulations would be able to prescribe 'relevant offences' that may impact a person's ability to carry out registered work, as well as the time in which a person can appeal against a refusal to issue a building approval or completion approval. The Committee generally prefers that substantive matters are set out in primary legislation to ensure an appropriate level of parliamentary oversight.

The Committee acknowledges that regulatory frameworks of this nature routinely require supplementary detail to be prescribed by regulations, and that the building approval context involves considerable technical complexity that may be more appropriately addressed through subordinate legislation. The Committee also notes that regulations made under the Act would be subject to disallowance under section 41 of the *Interpretation Act 1987*, which may provide a measure of parliamentary oversight.

However, many of the substantive matters deferred to the regulations are matters upon which the legislative framework depends, and which may materially impact rights and obligations. For example, the regulations would be able to apply a different version of the Building Code to a building approval than the version that was in force when the application was made, which may significantly impact compliance obligations. The regulations would also be able to prescribe 'relevant offences' that would affect a person's right to undertake 'registered work', which would effectively allow the regulations to exclude a class of persons from the profession. Cumulatively, the delegation of these substantive matters to the regulations may make it difficult for individuals to ascertain the scope of their rights and obligations from the Act itself. For these reasons, the Committee refers the matter to Parliament for consideration.

#### *Henry VIII provision*

- 1.19 Proposed section 46 provides that Subdivision 3 of the Bill, which makes provision for Crown building work, may be modified by the regulations.

Proposed section 46 expressly provides that Subdivision 3, which provides for Crown building work, may be modified by the regulations. This is a clear Henry VIII provision, as it would allow the Executive to directly amend the parent Act by regulation, without reference to Parliament. The Committee generally considers Henry VIII provisions in Bills to be an inappropriate delegation of legislative power, as regulations are not subject to the same level of parliamentary scrutiny as primary legislation.

The Committee acknowledges that regulations made under this provision are still required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. However, it also notes that the scope of this particular Henry VIII provision is particularly broad, as it relates to the entire subdivision. This means that regulations made under the proposed provision may

**substantially modify the definition of Crown building work, and may alter, expand, reduce or even remove the relevant approval requirements applicable to this building work. For these reasons, the Committee refers the issue to Parliament for consideration.**

*Wide delegation of functions to classes of unknown persons*

- 1.20 Proposed section 196 would empower both the Minister and the Secretary to delegate any of their functions under the proposed Act or the regulations.
- 1.21 Proposed sections 196(1) and (2) provide that both the Minister and the Secretary may delegate their functions to a person employed in the Department or a person prescribed by the regulations.
- 1.22 Proposed subsection 196(5) further provides that a person to whom a function has been delegated may sub-delegate that function if the instrument of delegation specifically authorises the person to do so. The power of delegation itself, under proposed subsection 196(3), cannot be delegated.

**Proposed section 196 of the Bill would permit the delegation and sub-delegation of ministerial and secretarial functions, subject to the terms of the instrument of delegation. The functions of the Minister and the Secretary under the proposed Act are substantial. The Secretary's functions extend across the entire regulatory scheme, including the granting, variation, suspension and cancellation of registrations under Part 4, the initiation of disciplinary proceedings under Part 5, the conducting of investigations, audits and the issuing of warning notices under Part 7, and the acceptance of undertakings and entry into information-sharing arrangements under Parts 7 and 9.**

**The Committee notes that the class of persons to whom these functions and sub-delegated functions may be given is not exhaustively defined in the Bill, and proposed sections 196(1)(b) and 196(2)(b) would allow the delegation of functions to 'a person prescribed by the regulations'. The Bill would therefore provide for the wide delegation of statutory functions to classes of unknown persons. This may enable private individuals to perform functions that may be expected to be performed by public officials or authorities. The Committee generally prefers that the classes of persons who may be delegated statutory functions are detailed in primary legislation to provide clarity, as well as greater oversight of the exercise of those functions.**

**The Committee acknowledges that allowing regulations to prescribe who may exercise delegated functions may allow for more flexibility in the administration of the regulatory framework. However, in this case, the Secretary's functions extend across the scheme and may significantly impact rights and obligations under the Act. For this reason, the Committee refers the issue to Parliament for consideration.**

*Commencement by proclamation*

- 1.23 Clause 2 provides that the Act would commence on a day or days to be appointed by proclamation, with the exception of Schedule 3, items 20 and 45, which would commence on the date of assent.
- 1.24 In his second reading speech, the Minister explained that:

... commencement by proclamation acknowledges that regulations need to be developed to support the reforms and ensure appropriate time for industry readiness. Provisions allowing the Crown to carry out prefabricated building work will commence on assent to enable modern methods of construction to accelerate the delivery of social housing.

**The Act would commence on a day or days to be appointed by proclamation, with the exception of Schedule 3, items 20 and 45, which would commence on the date of assent. The Committee generally prefers legislation to commence on a fixed date or on assent to provide certainty for affected persons, particularly where the legislation affects individual rights and liberties. Commencement by proclamation effectively delegates the role of the Parliament in determining when legislation commences to the Executive.**

**The Committee acknowledges that there may be practical reasons for allowing a flexible start date, such as providing time for the industry to establish administrative procedures necessary to implement the Bill's provisions. However, given the significance of the proposed provisions and their potential impact on individuals' rights and obligations, the Committee considers that the provisions should have a clear start date to provide certainty to those affected. For these reasons, the Committee refers the matter to Parliament for consideration.**

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

*Incorporation of extrinsic material and adoption of provisions in standards or other documents*

- 1.25 The Bill would require design and building work to comply with the National Construction Code, as per proposed section 4(a)(iv).
- 1.26 The National Construction Code includes the Building Code of Australia at Volumes 1 and 2. Proposed section 63 of the Bill would create an offence for non-compliance with the Building Code of Australia.
- 1.27 Proposed sections 7(2) and 7(3) provide that the regulations may modify the National Construction Code, specifically by adopting provisions in 'standards or other documents'.

**The Bill would require all design and building work to comply with the National Construction Code. Proposed section 7(3)(b) would also allow the regulations to modify the National Construction Code by adopting provisions in 'standards or other documents'.**

**The Committee acknowledges that the National Construction Code is an established instrument in Australian building regulation. It is consistent with the approach taken across other jurisdictions to respond to evolving technical standards without requiring primary legislative amendment each time the Code is updated.**

**However, by allowing the regulations to modify the Code by adopting provisions in standards or other documents, the Bill may allow for the incorporation of a range of external instruments. The term 'standards or**

**other documents' is extremely broad and may encompass instruments prepared by entities that are not subject to parliamentary scrutiny and cannot be disallowed under section 41 of the *Interpretation Act 1987*. The legal obligations imposed on persons in the building industry under the Act may therefore be shaped, in part, by the content of documents over which Parliament exercises no direct oversight.**

**The Committee generally prefers that substantive matters of this kind are set out in primary legislation where they can be subjected to parliamentary scrutiny, particularly where they may impose substantive obligations on a person. For this reason, the Committee refers the matter to Parliament for consideration.**

## 2. Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2026

Date introduced	5 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

### Purpose and description

- 2.1 The objects of the Bill are:
- (a) to extend the definition of stalking
  - (b) to make it an offence to engage in covert stalking
  - (c) to make it an offence to intentionally promote the unlawful use of a surveillance device when advertising the sale of the surveillance device
  - (d) to provide that, in certain circumstances, a person who has committed a domestic violence offence is disqualified from holding a licence under the *Security Industry Act 1997*.

### Background

2.2 The Bill seeks to amend the *Crimes (Domestic and Personal Violence) Act 2007*, the *Surveillance Devices Act 2007*, and the *Security Industry Regulation 2016* to support the prevention of domestic and personal violence offences, including those involving the use of surveillance technology.

2.3 During his second reading speech, the Hon Michael Daley MP, Attorney General, stated:

This bill brings together several important amendments to the criminal law and regulation of the security industry to stem and disrupt evolving methods of committing domestic and family violence and organised crime.

2.4 The Attorney General also explained that the Bill responds to findings from the NSW Crime Commission's report into the use of criminal surveillance devices in NSW:

The bill contains several amendments that have been informed by the Crime Commission's findings to strengthen existing criminal offences, insert new criminal offences and amend the regulatory framework for the security industry to ensure our laws remain in line with evolving technology and methods of offending, to better protect the people of New

South Wales, particularly the women of New South Wales, who are all too often the victims of domestic violence.

- 2.5 Schedule 1 of the Bill proposes to amend the *Crimes (Domestic and Personal Violence) Act 2007* to insert a new definition of stalking and provide for stalking, intimidation and covert stalking offences. The proposed offences are subject to maximum penalties of a \$5,500 fine (50 penalty units), or five years' imprisonment, or both.
- 2.6 Section 13(1) would make it an offence for a person to stalk or intimidate a person with the intent of causing them to fear physical or mental harm. Section 13(2) defines elements of the offence, providing that causing fear or harm includes causing fear or harm to a person with whom that person has a domestic relationship, and that a person intends to cause fear of harm if the person knows the conduct is likely to cause fear in the person.
- 2.7 Section 13(3) would make it an offence for a person to intentionally engage in covert stalking where a reasonable person would consider that, if the person subject to the stalking were aware of it, the victim would fear physical or mental harm to themselves or a person with whom they have a domestic relationship.
- 2.8 Schedule 2 of the Bill seeks to amend the *Surveillance Devices Act 2007* to update the definition of 'use' of a surveillance device and create an offence for promoting the unlawful use of surveillance devices. The proposed offence is subject to a maximum penalty of a \$11,000 fine (100 penalty units), or five years' imprisonment, or both, for individuals, and a \$55,000 fine (500 penalty units) for corporations.
- 2.9 Schedule 3 proposes to amend the Security Industry Regulation 2016 to provide that a person who has committed a domestic violence offence is disqualified from holding a security activity licence under the *Security Industry Act 1997*.

## Issues considered by the Committee

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

#### *Commencement by proclamation*

- 2.10 Clause 2 of the Bill provides that Schedules 1 and 2 would commence on a day or days to be appointed by proclamation.
- 2.11 The Attorney General explained that:

[The] reforms will commence by proclamation to enable necessary justice and police systems changes to be implemented prior to commencement.

**Schedules 1 and 2 of the Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions. This is particularly important where those provisions can impact personal rights and liberties.**

**The Committee acknowledges that a flexible commencement date is required to enable the necessary administrative changes to be**

**implemented to support the new offence framework. However, in this case, the Bill would create new offences that carry custodial penalties, which may impact an individual's rights and liberties. For this reason, the Committee refers the issue to Parliament for consideration.**

### 3. Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026

Date introduced	6 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Paul Scully MP

#### Purpose and description

- 3.1 The object of the Bill is to amend the *Electricity Supply Act 1995* and the *Environmental Planning and Assessment Act 1979* to prioritise and streamline certain energy infrastructure projects.

#### Background

- 3.2 The Bill proposes amendments to the *Electricity Supply Act 1995* and the *Environmental Planning and Assessment Act 1979* to facilitate the development of certain renewable energy infrastructure to be defined as priority energy projects.

- 3.3 In his second reading speech, the Hon Paul Scully MP, Minister for Planning and Public Spaces, said:

The bill is a mechanism that allows government to focus its efforts and coordinate resources on the projects that are most critical to reaching our targets ...

- 3.4 He explained that the Bill:

... provides a framework that allows the Government to identify and prioritise the projects most critical to the State's energy security. It is a commonsense approach to a complex challenge, and responsibility of government, to plan, prioritise wisely and deliver critical infrastructure when it is needed, not after the fact. It focuses attention on the projects capable of delivering generation, storage and network capacity within the time frames required for our State's energy transition, and it supports the development of a modern electricity system capable of powering homes, industry and communities for generations to come.

- 3.5 Schedule 1 of the Bill proposes to insert section 197 into the *Electricity Supply Act 1995* to provide for the declaration of priority energy projects by the Minister or an appointed person.

- 3.6 Schedule 2 of the Bill proposes to amend the *Environmental Planning and Assessment Act 1997* to facilitate the development of priority energy projects, including by:

- enabling the Independent Planning Commission, on request of the Minister, to hold public hearings about development that includes a priority energy project.
- providing that the Development Coordination Authority is subject to the control and direction of the Minister, except in relation to advice provided to the Minister by the Development Coordination Authority.
- providing that the Minister is not required to make advice regarding the state significance of a priority energy project from the Independent Planning Commission publicly available when declaring the project to be state significant development.
- clarifying that a priority energy project can be declared as state significant development.
- modifying determinations or directions made by the Minister, including in regard to the Independent Planning Commission and priority energy projects.

### Issues considered by the Committee

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

##### *Commencement by proclamation*

- 3.7 Clause 2 of the Bill provides that the Act 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. However, the Committee acknowledges that a flexible starting date may be necessary to develop the relevant administrative frameworks. In the circumstances, the Committee makes no further comment.**

## 4. Fair Trading Amendment (24-Hour Fuel Price Lock) Bill 2026\*

Date introduced	7 May 2026
House introduced	Legislative Assembly
Member with carriage	Mr Tim James MP
	*Private member's bill

### Purpose and description

- 4.1 The object of the Bill is to amend the *Fair Trading Act 1987* (the **Act**) to regulate the retail sale of certain fuels at service stations.

### Background

- 4.2 The Bill seeks to build on the existing fuel price reporting framework, under Division 6, section 58 of the Act, which the Bill would repeal and substantially re-enact.
- 4.3 The Bill would also create a new daily price-lock obligation under proposed section 57D(1). This new provision would require fuel retailers to notify a maximum price for the following day, which would then be locked in for that 24-hour period.
- 4.4 In his second reading speech, Mr Tim James MP stated that the Bill responds to the '... very real uncertainty and price pain currently affecting motorists across New South Wales.'
- 4.5 Mr James explained:

This is a modest, practical and consumer-focused reform that will make a real difference for motorists. It means motorists will be able to check the price in advance, compare prices between different service stations, choose where they want to buy their fuel and have confidence that the price will still be there when they arrive. It will help people make informed decisions. It also improves competition by making price comparison easier and more reliable.

### Issues considered by the Committee

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

#### *Commencement by proclamation*

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

**The Bill would commence on a day or days to be appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for affected persons.**

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

**However, the Committee acknowledges the practical reasons for allowing a flexible start date, including to establish the administrative arrangements necessary to implement the proposed measures. For this reason, the Committee makes no further comment**

*Wide regulation-making powers*

- 4.7 Proposed section 58(2) of the Bill would empower regulations to exempt a person from the whole or part of Division 6.
- 4.8 Division 6 establishes the fuel price reporting framework, including a number of offences under proposed sections 57C, 57D(1), 57D(2), 57E(1) and 57F.

**The Bill would insert section 58(2) into the *Fair Trading Act 1987*, which would allow regulations to exempt a person from the whole or part of Division 6. Division 6 establishes the fuel price reporting framework, including a number of offences under proposed sections 57C, 57D(1), 57D(2), 57E(1) and 57F.**

**This wide regulation-making power would allow the regulations to significantly limit the application or operation of the fuel price reporting framework, without reference to Parliament. The Committee generally comments on wide regulation-making powers that delegate legislative power in respect to matters that are substantive and not just administrative in nature. It generally prefers that such matters are specified in primary legislation.**

**However, the Committee acknowledges that these kinds of regulation-making powers are not uncommon, as they may allow for more flexible regulatory responses. The Committee also recognises that regulations are required to be tabled in Parliament and are therefore subject to disallowance under section 41 of the *Interpretation Act 1987*. For these reasons, the Committee makes no further comment.**

## 5. Fair Trading Amendment (FuelCheck) Bill 2026

Date introduced	5 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Anoulack Chanthivong MP

### Purpose and description

- 5.1 The objects of the Bill are to:
- (a) make it an offence for the operator of a service station to fail to notify the price or unavailability of fuel at the service station in contravention of an order establishing a scheme for the publication of service station fuel prices
  - (b) increase maximum penalties and penalty notice amounts for offences relating to the scheme, including by providing for higher penalty notice amounts for second and subsequent offences.

### Background

- 5.2 The Bill would amend the *Fair Trading Act 1987* (the **Act**) to extend the current reporting obligations for service stations and ensure that information on fuel prices and availability remains accurate and timely.
- 5.3 The Act currently requires that service stations comply with notification requirements made by order of the Secretary. Operators are required to report the standard retail price of a fuel offered for sale, along with the date and time from which the fuel was available at that price.
- 5.4 The Bill would expand these requirements to ensure that operators notify customers when a fuel type that is ordinarily available at their station becomes unavailable. A failure to report on the price or availability of fuel would constitute an offence.
- 5.5 During his second reading speech, the Hon Anoulack Chanthivong MP, Minister for Better Regulation and Fair Trading, explained that creating an offence for non-compliance with reporting obligations would 'close a regulatory gap'.
- 5.6 The Minister stated:
- Having updated information about current fuel availability across New South Wales is critical not only to support the Government's assessment of fuel availability, but also to ensure consumers do not waste precious fuel driving to a service station that does not have fuel available. This will become increasingly vital if the fuel availability crisis persists.
- 5.7 The Bill would also amend the Fair Trading Regulation 2019 to prescribe tiered penalty notice amounts for first and subsequent offences.

### Issues considered by the Committee

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

## 6. Local Land Services Amendment (Private Native Forestry) Bill 2026\*

Date introduced	6 May 2026
House introduced	Legislative Council
Member with carriage	The Hon Mark Banasiak MLC
	*Private member's bill

### Purpose and description

- 6.1 The object of the Bill is to prevent a development consent from being required for private native forestry.

### Background

- 6.2 The Bill seeks to amend the *Local Land Services Act 2013* (the **LLS Act**) and the Standard Instrument (Local Environmental Plans) Order 2006 in relation to native forests on private land. The amendments would exempt private native forestry operations from needing approval under the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**).
- 6.3 In his second reading speech, the Hon Mark Banasiak MLC stated, 'Right now, two systems are colliding: a State framework that authorises private native forestry, and local planning instruments that can require development consent for the exact same activity.' Mr Banasiak explained that the Bill is about '... freedom to use land lawfully without being buried under duplication.'
- 6.4 The EP&A Act provides the legal framework for planning and assessment decisions in NSW. Part 3 of the EP&A Act allows for the making of environmental planning instruments, including state environmental planning policies (made by the Governor) and local environment plans (made by the Minister or councils). Environmental planning instruments may be made for many purposes, including protecting the environment, providing affordable housing, and reserving land for public purposes.<sup>1</sup>
- 6.5 The LLS Act provides for the management, delivery and governance of local land services, and specifically, for programs and advisory services associated with agricultural production, biosecurity, natural resource management and emergency management.<sup>2</sup> Part 5B of the LLS Act regulates private native forestry operations across the State, with exclusions for certain areas, such as state forests, plantations and national parks.<sup>3</sup>

<sup>1</sup> [Environmental Planning and Assessment Act 1979](#), section 3.14.

<sup>2</sup> [Local Land Services Act 2013](#), section 4(1).

<sup>3</sup> [Local Land Services Act 2013](#), section 60ZS(1).

## Issues considered by the Committee

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

#### *Inconsistency of laws impacting obligation to obtain development consent*

- 6.6 Proposed section 60ZZD(a) of the LLS Act provides that if private native forestry operations are authorised under that Act, then an environmental planning instrument must not require development consent under the EP&A Act for those forestry operations.
- 6.7 Proposed section 60ZZD(b) of the LLS Act provides that an environmental planning instrument has no effect to the extent that it is inconsistent with subsection (a).
- 6.8 The Standard Instrument, as set out in the Standard Instrument (Local Environmental Plans) Order 2006, prescribes the form and mandatory provisions for all local environment plans made under the EP&A Act. Schedule 2 of the Bill would amend the Land Use Tables in the Standard Instrument so that private native forestry is 'permitted without consent'.
- 6.9 Section 3.20(4) of the EP&A Act provides that if the mandatory provisions of a standard instrument are amended after they are adopted by an environmental planning instrument, that environmental planning instrument is taken (without further amendment) to adopt the amended provisions from the date that the amendments to the standard instrument take effect.

**The Bill seeks to amend the *Local Land Services Act 2013* (the LLS Act) and the Standard Instrument (Local Environmental Plans) Order 2006 so that forestry operations authorised by the LLS Act are permitted without development consent under the *Environmental Planning and Assessment Act 1979* (the EP&A Act). Proposed subsection 60ZZD(b) of the LLS Act also provides that environmental planning instruments made under the EP&A Act have no effect to the extent that they require development consent for forestry operations authorised under the LLS Act. The Committee generally comments on provisions that may be inconsistent with 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 intent of the Bill may be to reduce duplication within the regulatory framework governing private native forestry operations. However, subsection 3.20(4) of the EP&A Act provides that when a standard instrument is amended after it is adopted by an environmental planning instrument, that environmental planning instrument is taken to adopt those changes without any further amendments being made. This may create further confusion for individuals as to the relevant consent requirements that apply under an environmental planning instrument. For these reasons, the Committee refers the matter to Parliament for consideration.**

## 7. Prevention of Cruelty to Animals Amendment (Enforcement and Operational Powers) Bill 2026

Date introduced	7 May 2026
House introduced	Legislative Council
Member with carriage	The Hon Tara Moriarty MLC

### Purpose and description

- 7.1 The object of the Bill is to amend the *Prevention of Cruelty to Animals Act 1979* (the **POCTA Act**) to:
- (a) update the structure of certain offences and penalties
  - (b) increase the penalties for certain offences
  - (c) insert new offences related to animal cruelty
  - (d) amend compliance and regulatory provisions
  - (e) make administrative and miscellaneous amendments.

### Background

- 7.2 The Bill proposes to introduce new animal cruelty offences and update the penalties for a number of existing offences under the POCTA Act. It would also clarify existing enforcement provisions, including those regarding the seizure and disposal of stock animals.
- 7.3 In her second reading speech, the Hon Tara Moriarty, Minister for Agriculture, noted that the POCTA Act is 40 years old, and that the '... bill will modernise the animal welfare framework in our State.'
- 7.4 The Minister stated:
- The reforms being introduced today will see an overhaul of the penalty framework in the Act by increasing and aligning penalties to community expectations, and to ensure that they are an appropriate deterrent to the offences in the Act. The bill will also update enforcement powers to ensure RSPCA NSW, Animal Welfare League and New South Wales police have the powers they need to enforce the laws.
- 7.5 The Minister also explained that the Bill was informed by extensive feedback on how animal welfare laws are working in practice, which came from a comprehensive review of the POCTA Act, relevant parliamentary inquiries, and targeted consultation with enforcement agencies.

## Issues considered by the Committee

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

#### *Strict liability offences with custodial penalties*

7.6 The Bill seeks to introduce a number of new strict liability offences, including:

- proposed section 7A(2), which would prohibit a person from leaving a dog unattended in a vehicle for more than 10 minutes unless the vehicle is adequately cooled. Failure to comply with the provision would carry a maximum penalty for an individual of a \$44,000 fine (400 penalty units), or 1 year imprisonment, or both.
- proposed section 7A(3), which would prohibit a person from restraining a dog on the metal tray of an open-backed vehicle unless insulating material is used that adequately protects the dog. Failure to comply with the provision would carry a maximum penalty for an individual of a \$44,000 fine (400 penalty units), or 1 year imprisonment, or both.
- proposed section 10(5), which would prohibit a person from tethering an animal for more than two hours without ensuring the animal is provided proper access to sufficient clean water for the whole period tethered. Failure to comply with the provision would carry a maximum penalty for an individual of a \$16,500 fine (150 penalty units), or 6 months imprisonment, or both.
- proposed section 21BA, which would prohibit a person from performing the Mules operation on a sheep unless the sheep is administered with particular pain relief products. Failure to comply with the provision would carry a maximum penalty for an individual of a \$16,500 fine (150 penalty units), or 6 months imprisonment, or both.
- proposed section 24QC, which would prohibit an owner or person in charge of a stock animal seized under the POCTA Act from purchasing or acquiring the animal or arranging for the animal to be acquired on the person's behalf. Failure to comply with the provision would carry a maximum penalty for an individual of a \$5,500 fine (50 penalty units), or 6 months imprisonment, or both.

7.7 In her second reading speech, the Minister explained the rationale for the significant penalties:

... they send a clear signal about how seriously we take animal cruelty, and they need to be set at a level that acts as a genuine deterrent. Many of the penalties in the Act and the regulation have not been updated for some time and no longer reflect the seriousness of the offences they apply to. While some key penalties were increased in 2021, the remaining penalties were not updated. This bill fixes that by aligning penalty amounts to the changes made in 2021, according to the seriousness of the offences to which they relate.

**The Bill seeks to introduce a number of new strict liability offences into the *Prevention of Cruelty to Animals Act 1979*. The new offences under proposed sections 7A(2), 71(3), 10(5), 21BA and 24QC all relate to preventing animal cruelty and carry potential custodial penalties. For**

**example, proposed section 7A(2) would prohibit a person from leaving a dog unattended in a vehicle for more than 10 minutes unless the vehicle is adequately cooled. Failure to comply with the provision would carry a maximum penalty of a \$44,000 fine (400 penalty units), or 1 year imprisonment, or both, for an individual.**

**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. The Committee acknowledges that strict liability offences are not uncommon in regulatory settings to encourage compliance. However, in this case, the relevant offences would carry potential custodial penalties and would therefore allow a custodial sentence to be imposed without establishing the mental element of 'fault'. For this reason, the Committee refers the matter to Parliament for consideration.**

## 8. Statute Law (Miscellaneous Provisions) Bill 2026

Date introduced	6 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Jenny Aitchison MP

### Purpose and description

8.1 The objects of the Bill are:

- (a) to make minor amendments to various Acts (Schedule 1)
- (b) to amend certain other Acts and instruments for the purpose of effecting statute law revision (Schedule 2)
- (c) to make other provisions of a consequential or ancillary nature (Schedule 3).

### Background

8.2 The Bill proposes a range of minor amendments, including to:

- remove references to repealed provisions, update language and amend typographical errors across various Acts,
- make consequential savings and transitional provisions of general effect, and
- further postpone the automatic repeal of various regulations, which can no longer be repealed by order under the *Subordinate Legislation Act 1989*.

8.3 In her second reading speech, Ms Julia Finn MP, on behalf of the Hon Jenny Aitchison MP, explained:

Statute law revision bills are an effective method for making minor policy changes and also serve as an important mechanism to maintain the quality of the New South Wales statute book by removing typographical errors, updating cross-references and repealing redundant provisions.

### Issues considered by the Committee

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

# Part Two – Regulations with comment

# 1. Crimes (Administration of Sentences) Amendment (Classification of Inmates) Regulation 2026

Date tabled	LA: 10 February 2026 LC: 10 February 2026
Disallowance date	LA: 14 May 2026 LC: 2 June 2026
Minister responsible	The Hon Anoulack Chanthivong MP

## Purpose and description

- 1.1 The objects of the Regulation are:
- (a) to set out relevant factors in deciding whether an inmate is a male or female inmate for the purposes of the Crimes (Administration of Sentences) Regulation 2014, including the classification, placement, case management, separation and strip-searching of inmates
  - (b) to amend the procedures for the strip-searching of an inmate in relation to the inmate's sex.
- 1.2 The Regulation is made under section 79(1)(a)-(c1) of the *Crimes (Administration of Sentences) Act 1999*.

## Issues considered by the Committee

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

#### *Classification of male and female inmates contrary to gender identity*

- 1.3 The Regulation inserts clause 3A into the Crimes (Administration of Sentences) Regulation 2014 to provide for the classification of male and female inmates.
- 1.4 Clause 3A(1) provides that the following factors may be considered in deciding whether an inmate is a male or female inmate, for the purposes of the Regulation:
- the risk to the safety of the inmate or others as a result of the decision
  - the effect of the decision on the requirements to maintain security and good order under the Regulation and the *Crimes (Administration of Sentences) Act 1999*
  - other factors the decision-maker considers relevant.

1.5 Clause 3A(2) provides that it is not necessary for the decision to be consistent with one or more of the following:

- the sex of the inmate recorded in a birth certificate or other identity document of the inmate
- the gender identity of the inmate expressed by the inmate
- the external physical sex characteristics of the inmate.

**The Regulation amends the Crimes (Administration of Sentences) Regulation 2014 to insert clause 3A, which provides for the classification of inmates as male or female, and sets out factors that may be considered when making such a decision. Clause 3A(2) states that it is not necessary for this decision to be consistent with the sex of the inmate as recorded in a birth certificate or other identity document, the gender identity of the inmate, or the external physical sex characteristics of that inmate.**

The Regulation may therefore explicitly permit the classification of an inmate, as a male or female inmate, that is inconsistent with the inmate's own gender identity, and potentially inconsistent with their legal sex. For example, an inmate may be classified as a male inmate, despite identifying as a woman and despite having changed the sex on their birth certificate to female. Denying an inmate's gender identity may impact their right to be treated with dignity and respect, as set out under Article 10 of the International Covenant on Civil and Political Rights.<sup>4</sup>

The Committee acknowledges that the decision regarding a person's classification as a male or female inmate may consider risks to the safety of the inmate or others. However, the Committee notes that these are not mandatory considerations, and there remains considerable discretion around the decision-making process, with no requirement to give reasons for a decision. The Committee also notes that the classification of an inmate as a male or female inmate has significant implications for the exercise of powers against that person under the Regulation, including who can strip-search them. This may further impact on an inmate's right to privacy, dignity and bodily autonomy. For these reasons, the Committee refers the issue to Parliament for consideration.

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

# 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. [Industrial Relations Commission of New South Wales – Practice Note No. 34 – Stop Bullying Applications](#)

The object of the Practice Note is to provide information about case management practice and procedures at the Industrial Relations Commission of NSW. The Practice Note applies to stop bullying applications made under section 144D of the *Industrial Relations Act 1996*.

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

2. [Industrial Relations Commission of New South Wales – Practice Note No. 35 – Sexual Harassment Applications](#)

The object of the Practice Note is to provide information about case management practice and procedures at the Industrial Relations Commission of NSW. The Practice Note applies to applications for sexual harassment orders made under section 144P of the *Industrial Relations Act 1996*.

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

3. [Industrial Relations Commission of New South Wales – Criminal Practice Note No. 1 – Work Health and Safety Act Prosecutions](#)

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

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

4. [State Debt Recovery Amendment Regulation 2026](#)

The object of the Regulation is to amend the State Debt Recovery Regulation 2024 to:

- (a) provide a list of qualifications and experience as criteria for non-government members of the Hardship Review Board
- (b) insert a transitional provision relating to the Board.

This Regulation is made under the *State Debt Recovery Act 2018* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 5. Uniform Civil Procedure (Amendment No 107) Rule 2026

The Rule makes amendments to clarify that:

- (a) the summons commencing an appeal must contain a statement setting out in precise terms the question or questions of law sought to be raised
- (b) a notice of appeal must state the question or questions of law sought to be raised.

The Rule is made under the *Civil Procedure Act 2005* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 6. Poisons and Therapeutic Goods Amendment (Drug of Addiction—Esketamine) Regulation 2026

The object of the Regulation is to authorise a medical practitioner to prescribe and supply esketamine under the *Poisons and Therapeutic Goods Act 1966* in certain circumstances.

The Regulation is made under the *Poisons and Therapeutic Goods Act 1966* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 7. Electricity Supply Amendment (Miscellaneous) Regulation 2026

The objects of the Regulation are as follows:

- (a) to amend the Electricity Infrastructure Investment Regulation 2021 as follows—
  - (i) to give the infrastructure planner the function of administering certain payments for the benefit of communities affected by renewable energy zones or certain infrastructure projects
  - (ii) to replace references to “relevant local community” with references to “relevant community”
  - (iii) to replace references to “relevant employees” with references to “relevant persons”
  - (iv) to omit the definitions of relevant local community and relevant employee
- (b) to amend the Electricity Supply (General) Regulation 2014 to prescribe offences under the *Electricity Supply Act 1995* related to charges for solar-generated electricity supplied by customers as penalty notice offences and to prescribe the amounts payable under the penalty notices
- (c) to amend the Electricity Supply (Safety and Network Management) Regulation 2014 to permit the Minister for Energy to make scheme rules for that regulation, Part 3
- (d) to amend the National Electricity (New South Wales) Regulation 2022 to modify the operation of the National Electricity Rules to the extent those rules apply as a law of New South Wales in relation to cost pass through and positive and negative change events
- (e) to amend the *National Energy Retail Law (Adoption) Act 2012* as follows:
  - (i) to provide for billing standards and arrangements for the supply of energy, hot water and centralised air-conditioning services by the use of embedded networks
  - (ii) to ensure information about embedded networks and the costs of obtaining energy, hot water and centralised air-conditioning through an embedded network is publicly available

- (iii) to ensure energy consumer complaints resolution processes are available for consumers who receive services through embedded networks
- (f) to amend the National Energy Retail Law (Adoption) Regulation 2020 to provide an upper consumption threshold for embedded network customers
- (g) to amend the Residential (Land Lease) Communities Regulation 2015 to omit the obligation for the Independent Pricing and Regulatory Tribunal to determine and publish a median retail offer every 12 months
- (h) to amend the Residential Tenancies Regulation 2019 to provide that a residential tenant must pay the charges associated with the delivery of services through an embedded network, but only if the services to the tenant's premises are separately metered.

The Regulation is made under the *Electricity Infrastructure Investment Act 2020*, *Electricity Supply Act 1995*, *National Electricity (New South Wales) Act 1997*, *National Energy Retail Law (Adoption) Act 2012*, *Residential (Land Lease) Communities Act 2013* and the *Residential Tenancies Act 2010*. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 8. Road Transport Legislation Amendment (Electric Bicycles) Regulation 2026

The object of the Regulation is to amend the definition of 'bicycle' to:

- (a) require bicycles that have an auxiliary motor (**electric bicycles**) to meet the requirements of European Standard EN 15194:2017+A1:2023, Cycles – Electrically power assisted cycles – EPAC Bicycles
- (b) permit the ongoing use of certain electric bicycles that do not comply with that standard on roads and road-related areas in New South Wales until the end of February 2029.

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

#### 9. Drug Court Amendment (Administration of Sentences) Regulation 2026

The object of the Regulation is to make amendments to:

- (a) the Drug Court Regulation 2020:
  - (i) to widen the eligibility criteria of persons who may be referred to the Drug Court to include persons who have the means to reside, in addition to those who do reside, in the prescribed local government areas, and to extend the prescribed local government areas to include the Blue Mountains, Central Coast and Wollongong
  - (ii) to permit the District Court or Local Court to refer an eligible convicted offender to the Drug Court regardless of where the District Court or Local Court sits for the relevant proceedings
- (b) the Crimes (Administration of Sentences) Regulation 2014 to decrease the number of times per week, from 3 to 2, that the Commissioner of Corrective Services must ensure an offender in community custody undergoes periodic drug testing.

This Regulation is made under the *Drug Court Act 1988* and the *Crimes (Administration of Sentences) Act 1999*. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 10. Independent Commission Against Corruption Amendment Regulation 2026

The object of the Regulation is to amend the Independent Commission Against Corruption Regulation 2017 as follows:

- (a) amend the preamble to the NSW Ministerial Code of Conduct
- (b) make amendments consequent on the commencement of the Constitution (Disclosures by Members) Regulation 2026.

This Regulation is made under the *Independent Commission Against Corruption Act 1988* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 11. Unclaimed Money Amendment (Notice of Debt Repayments) Regulation 2026

The object of the Regulation is to amend the Unclaimed Money Regulation 2025 to specify matters that must be included in a notice given to a person under the *Unclaimed Money Act 1995*, section 26B(2).

This Regulation is made under the *Unclaimed Money Act 1995* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 12. Local Court of New South Wales – Practice Note – Bail Proceedings

The purpose of the Practice Note is to outline the practice and procedure to be adopted in bail application proceedings in the Bail Division. The Practice Note applies to bail application proceedings pursuant to the *Bail Act 2013* in the Local Court. It applies to all first instance bail application proceedings on weekdays, weekends and public holidays by adult applicants who have been police bail refused and section 19 (*Mental Health Cognitive Impairment Forensic Provisions Act 2020*) returns.

The Practice Note commenced on 22 November 2025 and was amended on 28 March 2026. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 13. Personal Injury Commission (Amendment No 5) Rule 2026

The object of the Rule is to amend the Personal Injury Commission Rules 2021 as follows:

- (a) Schedule 1.1 provides for:
  - (i) the conduct and removal of tutors appointed under the *Personal Injury Commission Act 2020*, section 43A for persons under legal incapacity
  - (ii) how appointed representatives, appointed under the *Motor Accident Injuries Act 2017*, section 7.47 for persons under legal incapacity, may make applications or refer matters to the Personal Injury Commission, or carry on proceedings, under that Act, Part 7
  - (iii) making orders under the *Personal Injury Commission Act 2020*, section 58A
- (b) Schedule 1.2 updates cross-references consequent on the Police Regulation 2015 being repealed and replaced by the Police Regulation 2025.

The Rule is made under the *Personal Injury Commission Act 2020* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 14. Constitution (Disclosures by Members) Regulation 2026

The object of the Regulation is to repeal and remake, with changes, the Constitution (Disclosures by Members) Regulation 1983.

The Regulation provides for:

- (a) the ongoing disclosure by Members of Parliament of pecuniary interests and other matters relating to Members
- (b) the publication of publicly accessible and searchable electronic registers of the disclosures by Members of Parliament on the website of the NSW Parliament
- (c) the keeping of certain parts of disclosures made by Members of Parliament confidential to protect the privacy and safety of other persons.

The Regulation is made under the *Constitution Act 1902*, including section 14A. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

#### 15. Liquor Amendment (Airports) Regulation 2026

The object of the Regulation is to amend the Liquor Regulation 2018:

- (a) to support the transition from the Commonwealth to New South Wales of liquor regulation at airports
- (b) to deem liquor licences granted by the Commonwealth as licences (**deemed NSW licences**) under the *Liquor Act 2007* (the **Act**)
- (c) to support amendments made to the Act by the *Liquor Amendment (Airports) Act 2025*, including for the following purposes:
  - (i) to prescribe particular land as land surrounding Western Sydney Airport
  - (ii) to provide that certain licence applications for premises in a passenger terminal at an airport are not relevant applications and so are not required to be accompanied by a statement of risks and potential effects
  - (iii) to exempt licence applications for premises in a passenger terminal at an airport from advertising requirements under the Act
  - (iv) to require a holder of a deemed NSW licence to give the Secretary particular documents and information within 3 months after the commencement of this regulation.

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

#### 16. Court Security Amendment (Mental Health Review Tribunal) Regulation 2026

The object of the Regulation is to prescribe the Mental Health Review Tribunal as a court for the *Court Security Act 2005*.

The Regulation is made under the *Court Security Act 2005* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

17. [Casino Control Amendment \(Manager Appointment Extension\) Regulation 2026](#)

The object of the Regulation is to extend the appointment of the manager of the casino operated by The Star Pty Limited at Pyrmont.

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

18. [Crimes \(Administration of Sentences\) Amendment Regulation 2026](#)

The object of the Regulation is to provide for requirements in relation to reporting of misconduct by members of staff of Corrective Services NSW.

The Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 79 and 271, the general regulation-making powers. It 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. 46

TIME & DATE: 3:00PM, 11 MAY 2026

LOCATION: ROOM 1136 AND VIA  
VIDEOCONFERENCE

### MEMBERS PRESENT

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

### APOLOGIES

Ms Munro and Mr Murphy.

### OFFICERS PRESENT

Sam Griffith, Carly McKenna, Joan Douce, Charlie King, Alex Read and Nicolle Gill.

### AGENDA ITEM

#### 1. Confirmation of minutes

Resolved, on the motion of Ms Davis: That the minutes of the meeting of 4 May 2026 be confirmed.

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

#### 3. Consideration of bills with comment for Legislation Review Digest 45/58

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

- a) Building (Approvals and Practitioners) Bill 2026
- b) Crimes (Domestic and Personal Violence) and Other Legislation Amendment Bill 2026
- c) Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026
- d) Fair Trading Amendment (24-Hour Fuel Price Lock) Bill 2026
- e) Local Land Services Amendment (Private Native Forestry) Bill 2026
- f) Prevention of Cruelty to Animals Amendment (Enforcement and Operational Powers) Bill 2026.

**4. Consideration of bills without comment for Legislation Review Digest 45/58**

Resolved, on the motion of Mr Layzell: That the Committee adopts the following draft reports without comment *in globo*:

- a) Fair Trading Amendment (FuelCheck) Bill 2026
- b) Statute Law (Miscellaneous Provisions) Bill 2026.

**5. Consideration of regulations with comment for Legislation Review Digest 45/58**

Resolved, on the motion of Ms Stuart: That the Committee adopts the draft report regarding the Crimes (Administration of Sentences) Amendment (Classification of Inmates) Regulation 2026.

**6. Regulations without comment for Legislation Review Digest 45/58**

Resolved, on the motion of Ms Higginson: That the Committee adopts the regulations without comment as Part Three to Digest No. 45/58.

**7. Legislation Review Digest 45/58**

Resolved, on the motion of Mr Layzell:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts the Legislation Review Digest No. 45/58 and that it be signed by the Chair and presented to the House.

**8. Regulations to be reviewed**

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

Resolved, on the motion of Ms Stuart: That the Committee consider all regulations and statutory instruments that are currently subject to disallowance (tabled 5 May 2026), even if the relevant regulations have been disallowed by the time the next Digest is adopted.

**9. Next meeting**

The Committee adjourned at 3.04pm until Monday 25 May 2026.