

Legislation Review Committee



PARLIAMENT OF
NEW SOUTH WALES

Legislation Review Digest



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

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Guide to the Digest

The Legislation Review Committee has two broad functions set out in sections 8A and 9 of the *Legislation Review Act 1987* (**the Act**). Section 8A requires the Committee to scrutinise all Bills introduced into Parliament while section 9 requires the scrutiny of all regulations.

Part One: Functions Regarding Bills

The Committee's purpose is to assist all members of Parliament to be aware of, and make considered decisions on, the rights implications of legislation. The Committee does not make specific recommendations on Bills and does not generally comment on government policy.

The Committee's functions with respect to Bills as established under section 8A of the Act are as follows:

- (a) to consider any Bill introduced into Parliament, and
- (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
 - (i) trespasses unduly on personal rights and liberties
 - (ii) makes rights, liberties and obligations unduly dependent upon insufficiently defined administrative powers
 - (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions
 - (iv) inappropriately delegates legislative powers, or
 - (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

The terms of section 8A are not defined. However, the types of issues the Committee typically addresses in its Digests include, but are not limited to:

Trespass unduly on personal rights and liberties:

- retrospectivity
- self-incrimination and the right to silence
- reversal of the onus of proof
- procedural fairness
- rule of law and separation of powers
- extraterritoriality
- strict liability and penalty notice offences
- search and seizure without warrant
- confidential communications and privilege
- wide regulatory powers
- access to vote
- ability to engage in public life and public elections
- equal application of laws
- freedom of expression and free speech
- freedom of religion and belief
- freedom of contract
- right to personal and real property
- privacy and protection of personal information
- right to personal physical integrity
- legislative interference in standing judicial matters

Insufficiently defined administrative powers:

- insufficiently defined or wide powers

Non-reviewable decisions:

- excludes access to review
- limits type of evidence available to a decision-maker
- provides decision-maker is not required to provide reasons for a decision
- decisions made in private

Inappropriate delegation of legislative powers:

- provides the executive with unilateral authority to commence an Act (i.e. commencement by proclamation)
- wide power of delegation
- wide regulation-making powers (e.g. creation of offences or setting penalties)
- Henry VIII clauses (clauses that allow amendment of Acts by regulation)
- imposition of tax or levy by regulation

Insufficiently subjects the exercise of legislative power to parliamentary scrutiny

- subordinate legislation not tabled in Parliament and not subject to disallowance
- insufficient disallowance period
- significant matters which should be set by Parliament (e.g. definitions)
- incorporating rules or standards of other bodies in force not subject to disallowance

In practice, the Committee highlights issues of concern and takes into consideration the potential reasons for introducing such a provision and any safeguards in place. The Committee determines if the provisions may be reasonable in the circumstances or should be referred to Parliament for further consideration.

Under section 8A(2) of the Act, Parliament may pass a Bill whether or not the Committee has reported on it. However, this does not prevent the Committee from reporting on any passed or enacted Bill.

Part Two: Functions Regarding Regulations with Comments

The Committee's functions regarding regulations are established under section 9 of the Act:

- (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament, and
- (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
 - (i) that the regulation trespasses unduly on personal rights and liberties
 - (ii) that the regulation may have an adverse impact on the business community
 - (iii) that the regulation may not have been within the general objects of the legislation under which it was made
 - (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made
 - (v) that the objective of the regulation could have been achieved by alternative and more effective means
 - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act
 - (vii) that the form or intention of the regulation calls for elucidation, or
 - (viii) that any of the requirements of sections 4, 5 and 6 of the [Subordinate Legislation Act 1989](#), or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and

- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.

The Committee may write to the relevant Minister for further information or, as with Bills, refer particular matters to the Parliament for further consideration. As above, the Committee may also recommend that Parliament disallow a regulation that has been made.

Part Three: Regulations without Comment

The Committee reviews all disallowable regulations which have been tabled in Parliament. However, unlike Bills, the Committee is only required by statute to report on those regulations with identified issues under section 9, rather than reporting on every regulation made.

Part Three to the Digest contains a brief summary of the regulations that do not engage with any issues under section 9 or, in the Committee's view, do not warrant further comment.

Conclusions on Bills and Regulations

Part One of the Digest contains the Committee's reports on Bills which were introduced into Parliament. Under the section titled 'Issues considered by the Committee', the report includes commentary about whether the Bill engages with one or more of the five criteria for scrutiny set out in section 8A(1)(b) of the Act. This will include either:

- Where no issues set out in section 8A(1)(b) are identified, that 'The Committee makes no comment in respect of the issues set out in section 8A of the LRA.'
- Where issues set out in section 8A(1)(b) are identified, a distinct comment on each issue identified.

Part Two of the Digest contains the Committee's reports on regulations and other statutory instruments which are tabled in Parliament and are still subject to disallowance. As noted, the Committee only reports on regulations and other statutory instruments with identified issues under section 9 of the Act, and those instruments which don't have identified issues are listed in Appendix Two of the Digest. Like Bill reports, the Committee's regulation reports includes a distinct comment on each issue identified under the section titled 'Issues considered by the Committee'.

For every issue identified in a report, the Committee's comment will conclude either that the Committee 'refers/notes the matter to Parliament' or 'makes no further comment'.

Where the Committee concludes to **refer/notes the matter to Parliament**, the Committee considers that it requires a response or further comment by the Member with carriage of the Bill (for Bill reports) or the responsible Minister (for regulation reports).

Where the Committee concludes to **make no further comment** on an identified issue in the report, the Committee considers that the issue may technically engage with the criteria under section 8A or 9 of the Act but, given counterbalancing considerations (e.g. legislated safeguards), it is unlikely in practice to raise the issues under the relevant section. The Committee invites but does not otherwise require the Member with carriage (for Bill reports) or the responsible Minister (for regulation reports) to comment on these identified issues.

Digest Snapshot

PART ONE – BILLS

[1. Crimes \(Sentencing Procedure\) Amendment \(Good Character\) Bill 2026](#)

Issue identified	Conclusion of Committee
Uncertainty regarding legal effect – Amendment of an amending Act	Referred
Constraint on judicial discretion	Referred
Retrospectivity	Referred
Commencement by proclamation	Referred

[2. Crimes Legislation Amendment \(Organised and Gang-related Crime Reforms\) Bill 2026](#)

Issue identified	Conclusion of Committee
Right to liberty and freedom from arbitrary detention – automatic stay of release	Referred
Wide regulatory powers impacting privacy rights	Referred
Reversal of the onus of proof – unexplained wealth orders	No further comment
Removal of knowledge of age as a fault element	No further comment
Commencement by proclamation	No further comment

[3. Energy and Other Legislation Amendment \(Renewable Energy Infrastructure\) Bill 2026 \(No. 2\)*](#)

No issues identified

[4. Road Transport Legislation Amendment \(Demerit Point Integrity Taskforce\) Bill 2026](#)

Issue identified	Conclusion of Committee
Commencement by proclamation	No further comment

PART TWO – REGULATIONS WITH COMMENT

[1. Petroleum \(Onshore\) Amendment \(Petroleum Exploration Licence\) Regulation 2026](#)

Issue identified	Conclusion of Committee
Significant change to the petroleum exploration scheme	Referred

Summary of Conclusions

PART ONE – BILLS

1. Crimes (Sentencing Procedure) Amendment (Good Character) Bill 2026

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

Uncertainty regarding legal effect – Amendment of an amending Act

The Bill proposes to repeal amendments made by the *Crimes (Sentencing Procedure) Amendment (Good Character at Sentencing) Act 2026* (the amending Act) to the *Crimes (Sentencing Procedure) Act 1999*. The amending Act was assented to on 18 May 2026 and is to commence by proclamation. However, at the time of writing, the amending Act has not yet commenced.

The Committee notes that repealing amendments that have not yet been enacted may create some uncertainty about the legal effect of the relevant provisions, and may make it difficult for individuals to ascertain their rights. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.

However, in this case, the Government has expressed a clear intent to enact the reforms under the amending Act and to expand the reforms to all offences. Therefore, the proposed repeal of the relevant provisions would be technical in nature, and would not repeal the substance of the reforms in the amending Act. The Committee also notes that the Bill and the amending Act would both commence on proclamation, which would allow the Executive flexibility in timing the commencement to ensure that the effect of the amendments is clear to individuals. For these reasons, the Committee makes no further comment.

Constraint on judicial discretion

The Bill would expressly abolish the common law principle that allows a court to consider an offender's good character as a mitigating factor in sentencing at common law and under statute in NSW. Proposed subsections 21A(5E) and (5F) would direct courts not to consider evidence adduced solely for the purpose of establishing good character.

Removing the ability of an offender to rely on good character as a mitigating factor limits the material that may be placed before a court at sentencing and may constrain the court's discretion in determining an appropriate sentence. The Committee generally comments on provisions that would constrain judicial discretion, particularly where that limitation also impacts on a person's rights or liberties.

However, the Committee recognises that the intention of Bill is to remove an inherently subjective and vague factor that may contribute to inequality in the sentencing process. Additionally, abolishing good character as a mitigating factor is an important step in protecting victim-survivors from re-traumatisation. The Committee further notes that courts may consider the relevant evidence if it is adduced for another principle of, or factor in, sentencing. This means that offenders will still be able to rely on evidence about their background, community ties or employment if it is relevant to another mitigating factor. For these reasons, the Committee makes no further comment.

Retrospectivity

The Bill contains a transitional provision to clarify that, upon commencement of the proposed Act, the amendments would apply to sentencing proceedings commenced, but not finalised before, and sentences imposed after, the commencement of the proposed Act. The Committee notes that the effect of the transitional provision is that good character would no longer be available as a mitigating factor at sentencing, even where the offence was committed before, or criminal proceedings were commenced before, the commencement of the amending Act.

The Committee generally comments on provisions that operate retrospectively as they impact on the rule of law principle that a person is entitled to have knowledge and certainty of the law that applies to them at any given time.

However, the Committee acknowledges that the retrospective application of laws as proposed by the Bill is consistent with the general rule that offenders must be sentenced in accordance with the sentencing patterns and practices at the time of sentencing. In the circumstances, the Committee makes no further comment.

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

Commencement by proclamation

The proposed Act would commence on a day or days appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges that the proposed commencement by proclamation is intended to facilitate necessary arrangements between the Department of Communities and Justice and the Judicial Commission to conduct training and amend bench books, as appropriate. For this reason, the Committee makes no further comment.

2. Crimes Legislation Amendment (Organised and Gang-related Crime Reforms) Bill 2026

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

Right to liberty and freedom from arbitrary detention – automatic stay of release

Schedule 1[4] of the Bill seeks to widen the scope of the definition of 'serious offences' to which a bail decision may be stayed under the *Bail Act 2013*. Under section 40 of the *Bail Act 2013*, if a person charged with a serious offence is granted bail, the decision may be stayed for three business days upon an application, by the Director of Public Prosecutions or Police Commissioner, informing the court that a detention application will be made to the Supreme Court.

An automatic stay would require an accused person charged with a serious offence, who has already satisfied a bail authority to the higher 'show cause' standard and unacceptable risk test, to remain in custody until either the Supreme Court affirms the decision to release the person, the Crown revokes their detention application, or three business days have passed. The Committee notes that the stay of release relates to bail decisions where accused persons have not yet been convicted of an offence and enjoy the right to the presumption of innocence. Therefore, the Bill may impact on the accused's right to liberty and freedom from arbitrary

detention contained in Article 9 of the ICCPR, which provides that holding accused persons in remand should not be the general rule.

The Committee acknowledges that expanding the definition of a serious offence under section 40(5) may be intended to respond to heightened community concerns about organised crime and ensure public safety. However, the Committee notes that the accused must already satisfy a stringent 'show cause' bail test. The Committee also notes that the accused does not appear to have a right of reply on the stay of release decision, which is dependent only on written notice being given by the Crown. For these reasons, the Committee refers the matter to Parliament for consideration.

Wide regulatory powers impacting privacy rights

Schedule 7 of the Bill seeks to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* (the LEPR) to expand the powers of law enforcement agencies to interrogate digital devices when investigating serious crimes. Section 75B of the LEPR currently allows police officers to operate equipment to access data, at premises that are the subject of a search warrant, if they believe on reasonable grounds that the data could be seized under the warrant. The proposed amendments would expand these powers by allowing police officers to access and copy data from a device that has been moved to another location not subject to a warrant, if they believe on reasonable grounds that the data could be seized under the warrant. By allowing police officers to access and copy data without a warrant, the Bill would provide law enforcement officers with wide discretionary powers that may impact an individual's right to privacy.

The Committee recognises that these provisions are intended to address issues that law enforcement agencies are currently experiencing, including difficulties with bringing specialists and specialised equipment to the scene of a search warrant, and the time required to access data at a premises potentially exceeding the time for executing a search warrant. However, the Committee remains of the view that the power to copy and access an individual's data should be exercised under a warrant, unless there are exceptional circumstances, because of the potential impacts on privacy rights. For this reason, the Committee refers the matter to Parliament for consideration.

Reversal of the onus of proof – unexplained wealth orders

The Bill seeks to insert section 28A(3A)(b) into the *Criminal Assets Recovery Act 1990*. This section provides that, in proceedings against a person for an unexplained wealth order, the burden of proof is on the respondent to prove that that, on the balance of probabilities, their current or previous wealth was not from illegally acquired property or the proceeds of crime. This provision would allow for the confiscation of assets if the respondent cannot discharge the onus of proof to prove that their wealth was not obtained from illegal activity.

By shifting the burden of proof from the applicant to the respondent, and requiring them to prove the necessary elements, this provision would reverse the onus of proof. A reversal of onus of proof would usually undermine a person's right to the presumption of innocence, which protects an accused person's right to be presumed innocent until proven guilty.

However, the Committee notes that unexplained wealth orders are made under a civil forfeiture scheme and there is no risk of criminal penalty under the scheme. The Committee also notes that the respondent would only be required to prove matters on the balance of probabilities, which is lower than the criminal standard of proof. Further, the Committee acknowledges that the Bill proposes to only target individuals with significant unexplained wealth, exceeding \$250,000 in money or exceeding \$2 million or more in assets, for the purposes of deterring illegal activity. For these reasons, the Committee makes no further comment.

Removal of knowledge of age as a fault element

The Bill would insert section 351A(2B) into the *Crimes Act 1900*, which provides that it is not necessary to prove that an accused person knew the age of a child recruited to carry out, or assist in carrying out, a criminal activity. This provision would therefore remove knowledge of age as a fault element for the offences under existing section 351A(2) and proposed section 351A(2A), which both relate to recruiting a child to engage in criminal activity. By removing knowledge of age as a fault element, this provision would depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.

However, the Committee notes that the Bill would only remove knowledge of age as a specific fault element, and that the prosecution would still be required to prove the mental element of the offences more broadly. The Committee also acknowledges that the proposed amendments are intended to protect children, and that they are consistent with the approach taken for existing offences under the *Crimes Act 1900*, including the offence of using a child for the production of child abuse material. In the circumstances, the Committee makes no further comment.

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

Commencement by proclamation

Schedule 7, items [1]-[6] of the Bill would commence by proclamation. This Schedule would amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to grant additional powers to law enforcement officers that are executing search warrants.

The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date. In this case, minor regulatory amendments regarding application forms need to be made prior to the commencement of the provisions in Schedule 7. In the circumstances, the Committee makes no further comment.

3. Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No. 2)*

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

4. Road Transport Legislation Amendment (Demerit Point Integrity Taskforce) Bill 2026

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

Commencement by proclamation

The Bill would commence by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the Bill's provisions. However, the Committee acknowledges that a flexible starting date may be necessary to implement the necessary system changes before the proposed measures become operational. For this reason, the Committee makes no further comment.

PART TWO – REGULATIONS WITH COMMENT

1. Petroleum (Onshore) Amendment (Petroleum Exploration Licence) Regulation 2026

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

Significant change to the petroleum exploration scheme

The Regulation reduces the administrative fee for applications for petroleum exploration licences from \$50,000 to \$1,000. Applications for other kinds of petroleum titles, such as assessment leases, production leases and special prospecting authorities, retain the \$50,000 administrative fee.

By reducing the previous administration fee for exploration licences by 98 per cent, the Regulation significantly lowers the barrier to entry for petroleum exploration and represents a significant change to the petroleum title scheme under the *Petroleum (Onshore) Act 1991*. The Committee is of the view that such matters should be dealt with through primary legislation to ensure an appropriate level of parliamentary oversight. This is particularly the case where the reduced barrier to entry may have significant policy implications, including potentially harmful impacts on water resources and landscapes.

The Committee notes that notice of a motion to disallow the Regulation was given in the Legislative Council on 6 May 2026. This motion is yet to be moved and considered in the Upper House. Noting the significance of the amendments, the Committee refers the matter to Parliament for consideration.

Part One – Bills

1. Crimes (Sentencing Procedure) Amendment (Good Character) Bill 2026

Date introduced	13 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Michael Daley MP

Purpose and description

- 1.1 The object of the Bill is to amend the *Crimes (Sentencing Procedure) Act 1999* (the **Act**) to prevent good character from being taken into account as a mitigating factor in determining appropriate sentences for offences and to make consequential and related amendments.

Background

- 1.2 The Bill proposes to abolish 'good character' as a mitigating factor in sentencing for all offences at common law and under statute in NSW.
- 1.3 The Bill substantially replicates the Crimes (Sentencing Procedure) Amendment (Good Character at Sentencing) Bill 2026 (the **Good Character at Sentencing Bill**), as introduced in the Legislative Assembly on 4 February 2026. The Good Character at Sentencing Bill passed the Parliament on 12 May 2026, after being amended in the Legislative Council. The effect of the amendments was to remove good character as a mitigating factor at sentencing for sexual offences only.
- 1.4 In his second reading speech, the Hon Michael Daley MP, Attorney General, explained that the earlier reforms '... do not go far enough ...', and that the Bill would ensure that '... good character is removed as a mitigating factor for all offences ...', as recommended by the NSW Sentencing Council.
- 1.5 The Attorney General stated:
- The bill responds to the longstanding concerns of many victims and victims support organisations, and their families, that the use of good character evidence at sentencing can be harmful to victims and their families, including by re-traumatising them, minimising their experiences and perpetuating systemic harms. This often occurs in sentencing for sexual offences but is also a significant issue in sentencing for a range of other offences. This reform will reduce trauma for victim-survivors, who will no longer be subjected to hearing the offender described as a person of good character during sentencing proceedings.
- 1.6 In explaining the rationale for reintroducing the proposed reforms in full, the Attorney General further stated:

... if good character is abolished for some offences and not for others it could result in inconsistent sentencing practices and outcomes as well as unnecessary complexity in sentencing law.

...

Further, it is simply not acceptable to the Government that good character should be available as a mitigating factor when sentencing for serious offences such as domestic violence, murder and serious road crimes.

- 1.7 The Attorney General also addressed concerns about the unintended impacts on victim-survivors of domestic and family violence, which were raised during the consideration of the Good Character at Sentencing Bill. He said the Bill provides for specific consideration of the effect of the reforms on domestic and family violence matters, as part of the proposed statutory review of the reforms.
- 1.8 The Committee reported on the Good Character at Sentencing Bill in Digest No. 41/58. The comments in this report are largely consistent with the Committee's previous comments in relation to the issues of constraint on judicial discretion, retrospectivity and commencement by proclamation, with an additional issue identified regarding uncertainty.

Issues considered by the Committee

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

Uncertainty regarding legal effect – Amendment of an amending Act

- 1.9 Schedule 1, items [3], [4], [6] and [7] of the Bill would repeal certain amendments made by the *Crimes (Sentencing Procedure) Amendment (Good Character at Sentencing) Act 2026* (the **amending Act**) to the *Crimes (Sentencing Procedure) Act 1999*. The amending Act was assented to on 18 May 2026 and is to commence by proclamation. At the time of writing, it has not yet commenced.

The Bill proposes to repeal amendments made by the *Crimes (Sentencing Procedure) Amendment (Good Character at Sentencing) Act 2026* (the amending Act) to the *Crimes (Sentencing Procedure) Act 1999*. The amending Act was assented to on 18 May 2026 and is to commence by proclamation. However, at the time of writing, the amending Act has not yet commenced.

The Committee notes that repealing amendments that have not yet been enacted may create some uncertainty about the legal effect of the relevant provisions, and may make it difficult for individuals to ascertain their rights. This is contrary to the rule of law principle that people are entitled to know the law to which they are subject at any given time.

However, in this case, the Government has expressed a clear intent to enact the reforms under the amending Act and to expand the reforms to all offences. Therefore, the proposed repeal of the relevant provisions would be technical in nature, and would not repeal the substance of the reforms in the amending Act. The Committee also notes that the Bill and the amending Act would both commence on proclamation, which would allow the Executive flexibility in timing the commencement to ensure that

the effect of the amendments is clear to individuals. For these reasons, the Committee makes no further comment.

Constraint on judicial discretion

- 1.10 Proposed subsection 21A(5D) would expressly abolish the common law principle of good character, which may currently be considered by a court as a mitigating factor during sentencing.
- 1.11 Proposed subsections 21A(5E) and (5F) clarify that, while a court must not consider evidence adduced solely for the purpose of establishing good character, this does not prevent the court from considering that evidence if it is adduced for another principle of, or factor in, sentencing.
- 1.12 In his second reading speech, the Attorney General clarified:

... while a court must not consider evidence adduced solely for the purpose of establishing good character, this does not prevent the court considering that evidence if it is adduced for another purpose or principle of, or factor in, sentencing. As I noted previously, other mitigating factors in section 21A of the Crimes (Sentencing Procedure) Act will be retained. This includes consideration of an offender's lack of previous convictions, whether the offender is unlikely to reoffend and whether the offender has good prospects of rehabilitation. Written material tendered on sentence will remain admissible insofar as it addresses relevant factors, rather than good character.

The Bill would expressly abolish the common law principle that allows a court to consider an offender's good character as a mitigating factor in sentencing at common law and under statute in NSW. Proposed subsections 21A(5E) and (5F) would direct courts not to consider evidence adduced solely for the purpose of establishing good character.

Removing the ability of an offender to rely on good character as a mitigating factor limits the material that may be placed before a court at sentencing and may constrain the court's discretion in determining an appropriate sentence. The Committee generally comments on provisions that would constrain judicial discretion, particularly where that limitation also impacts on a person's rights or liberties.

However, the Committee recognises that the intention of Bill is to remove an inherently subjective and vague factor that may contribute to inequality in the sentencing process. Additionally, abolishing good character as a mitigating factor is an important step in protecting victim-survivors from re-traumatisation. The Committee further notes that courts may consider the relevant evidence if it is adduced for another principle of, or factor in, sentencing. This means that offenders will still be able to rely on evidence about their background, community ties or employment if it is relevant to another mitigating factor. For these reasons, the Committee makes no further comment.

Retrospectivity

- 1.13 Schedule 1[11] of the Bill contains a transitional provision that makes it clear that the amendments to the Act would apply to sentencing proceedings commenced, but not finalised before, and sentences imposed after, the commencement of the proposed Act. The transitional provision would apply regardless of whether an offence was committed before, or criminal proceedings were commenced before the commencement of the amending Act.
- 1.14 In his second reading speech, the Attorney General explained that this is consistent with section 21B of the Act, '... which provides for a general rule that offenders must be sentenced in accordance with the sentencing patterns and practices at the time of sentencing.'

The Bill contains a transitional provision to clarify that, upon commencement of the proposed Act, the amendments would apply to sentencing proceedings commenced, but not finalised before, and sentences imposed after, the commencement of the proposed Act. The Committee notes that the effect of the transitional provision is that good character would no longer be available as a mitigating factor at sentencing, even where the offence was committed before, or criminal proceedings were commenced before, the commencement of the amending Act.

The Committee generally comments on provisions that operate retrospectively as they impact on the rule of law principle that a person is entitled to have knowledge and certainty of the law that applies to them at any given time.

However, the Committee acknowledges that the retrospective application of laws as proposed by the Bill is consistent with the general rule that offenders must be sentenced in accordance with the sentencing patterns and practices at the time of sentencing. In the circumstances, the Committee makes no further comment.

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

- 1.15 Clause 2 of the Bill provides that it would commence on a day or days to be appointed by proclamation.
- 1.16 In his second reading speech, the Attorney General explained the rationale for this:

Given this is a change to a longstanding sentencing principle, delayed commencement will allow time for the Department of Communities and Justice and the Judicial Commission to work closely with judges and other officers of the court to conduct training and amend bench books as appropriate. It is incredibly important that time is taken to communicate with the legal profession about these reforms to ensure they are effectively implemented. Further, commencement by proclamation on a particular day will provide certainty to those with matters on foot when the reforms commence.

The proposed Act would commence on a day or days appointed by proclamation. The Committee generally prefers legislation to commence on a fixed date, or on assent, to provide certainty for those affected by the bill's provisions, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges that the proposed commencement by proclamation is intended to facilitate necessary arrangements between the Department of Communities and Justice and the Judicial Commission to conduct training and amend bench books, as appropriate. For this reason, the Committee makes no further comment.

2. Crimes Legislation Amendment (Organised and Gang-related Crime Reforms) Bill 2026

Date introduced	12 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Yasmin Catley MP

Purpose and description

2.1 The object of the Bill is to implement particular recommendations in the *Statutory Review of 2022 Organised Crime Reforms – Statutory Review Report* and other reforms to improve the police and criminal justice system’s response to organised crime, including by amending:

- (a) the *Bail Act 2013* to:
 - (i) enhance the consideration of an accused person’s relevant organised crime background when making bail decisions by requiring bail authorities to consider whether:
 - (A) the accused person has a history of compliance or non-compliance with serious crime prevention orders under the *Crimes (Serious Crime Prevention Orders) Act 2016* or firearms prohibition orders under the *Firearms Act 1996*
 - (B) the accused person has any criminal associations who are involved in organised criminal activity
 - (C) the relevant offence is committed in the course of an organised criminal activity
 - (ii) prescribe particular serious firearms and specially aggravated kidnapping offences as offences for which a court’s decision to grant bail or dispense with bail can be stayed if a detention application is to be made to the Supreme Court in relation to the accused person
- (b) the *Confiscation of Proceeds of Crime Act 1989* to:
 - (i) make amendments consequent on the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth
 - (ii) update the definition of serious drug offence in section 34(6) to clearly set out the list of relevant offences

- (iii) make other miscellaneous amendments in response to the statutory review
- (c) the *Crime Commission Act 2012* to permit the Minister to appoint Assistant Commissioners for the New South Wales Crime Commission for terms of 6 months
- (d) the *Crimes Act 1900* to:
 - (i) increase the penalties for the existing offences of recruiting children to engage in criminal activity
 - (ii) introduce new aggravated offences for:
 - (A) recruiting children who are less than 16 years of age to engage in criminal activity
 - (B) recruiting children to carry out or assist in carrying out particular serious criminal offences
 - (iii) increase the penalties for the existing offences for shooting at dwelling-houses or buildings and expand the offences to include shooting at motor vehicles in public places
 - (iv) introduce new aggravated offences for causing danger with a pistol or a prohibited firearm
 - (v) introduce new aggravated arson offences for:
 - (A) destroying or damaging a motor vehicle after the motor vehicle has been used in connection with the commission of particular serious criminal offences
 - (B) targeting business premises with reckless disregard for safety
 - (vi) clarify that, for the offence of being in possession of an implement of housebreaking or safebreaking or an implement capable of being used to enter or drive a conveyance, an implement includes an electronic device
 - (vii) clarify that, for offences relating to rebirthing cars, boats or trailers or making, using or interfering with unique identifiers, number-plates are unique identifiers
 - (viii) replace a reference to an International Mobile Station Equipment Identity number with a reference to an International Mobile Equipment Identity number
- (e) the *Criminal Assets Recovery Act 1990* to:
 - (i) extend the definition of current or previous wealth

- (ii) make amendments consequent on amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth
 - (iii) clarify the burden of proof in relation to unexplained wealth orders concerning the value of unexplained wealth
- (f) the *Dedicated Encrypted Criminal Communication Device Prohibition Orders Act 2022* to broaden the definition of serious criminal offence and make other miscellaneous amendments in response to the statutory review
- (g) the *Law Enforcement (Powers and Responsibilities) Act 2002* to:
 - (i) authorise police, in particular circumstances, to operate equipment to access and copy data from things that are seized under a crime scene or search warrant and moved to another location
 - (ii) impose requirements when giving directions in particular circumstances to persons who are less than 18 years of age
 - (iii) make other miscellaneous amendments.

Background

2.2 The Bill proposes a number of changes to the powers and legislative tools available to the NSW Police Force and NSW Crime Commission to deter and disrupt serious and organised crime. These changes include:

- introducing new offences
- increasing penalties
- amending criteria for bail decisions
- granting greater powers to law enforcement officers.

2.3 In her second reading speech, the Hon Yasmin Catley MP, Minister for Police and Counter-Terrorism, explained that the proposed changes will implement recommendations from the statutory review of the 2022 organised crime reforms.

2.4 The Bill also includes reforms that respond to emerging trends in serious and organised crime, as identified by law enforcement, including public shootings, kidnappings, firebombings, motor vehicle thefts and other serious crimes.

2.5 The Minister stated:

In the face of such criminal activity, our law enforcement personnel continue to deploy significant resources to bring these offenders to justice. The bill will tighten legislative settings to support law enforcement to take strong action against these people who stand against our way of life and endanger the New South Wales community.

Issues considered by the Committee

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

Right to liberty and freedom from arbitrary detention – automatic stay of release

- 2.6 Schedule 1[4] of the Bill proposes to amend section 40 of the *Bail Act 2013*. Section 40 of the *Bail Act 2013* allows a court's decision to grant bail for a serious offence to be stayed for up to three days if an urgent detention application is filed in the Supreme Court. This is subject to the written approval of the Director of Public Prosecutions, the Commissioner of Police, or a member of the NSW Police Force authorised by the Commissioner of Police.
- 2.7 Section 40(5) currently defines 'serious offences' to include a limited class of high-risk offences, including murder, or any other offence punishable by imprisonment for life, offences involving sexual intercourse with a person under the age of 16 years, and serious domestic violence offences. In her second reading speech the Minister explained that the existing offences defined as serious offences are '... deliberately narrow and confined ...'.
- 2.8 Schedule 1[4] would amend section 40 to expand the definition of a serious offence by adding new offences against the *Crimes Act 1900*, including serious firearms and kidnapping offences. The Minister explained that these offences '... have heightened community concerns in the context of organised crime ...'.

Schedule 1[4] of the Bill seeks to widen the scope of the definition of 'serious offences' to which a bail decision may be stayed under the *Bail Act 2013*. Under section 40 of the *Bail Act 2013*, if a person charged with a serious offence is granted bail, the decision may be stayed for three business days upon an application, by the Director of Public Prosecutions or Police Commissioner, informing the court that a detention application will be made to the Supreme Court.

An automatic stay would require an accused person charged with a serious offence, who has already satisfied a bail authority to the higher 'show cause' standard and unacceptable risk test, to remain in custody until either the Supreme Court affirms the decision to release the person, the Crown revokes their detention application, or three business days have passed. The Committee notes that the stay of release relates to bail decisions where accused persons have not yet been convicted of an offence and enjoy the right to the presumption of innocence. Therefore, the Bill may impact on the accused's right to liberty and freedom from arbitrary detention contained in Article 9 of the ICCPR¹, which provides that holding accused persons in remand should not be the general rule.

The Committee acknowledges that expanding the definition of a serious offence under section 40(5) may be intended to respond to heightened community concerns about organised crime and ensure public safety. However, the Committee notes that the accused must already satisfy a stringent 'show cause' bail test. The Committee also notes that the accused does not appear to have a right of reply on the stay of release

¹ United Nations, Office of the High Commissioner for Human Rights, International Covenant on Civil and Political Rights.

decision, which is dependent only on written notice being given by the Crown. For these reasons, the Committee refers the matter to Parliament for consideration.

Wide regulatory powers impacting privacy rights

- 2.9 Schedule 7 of the Bill would amend the *Law Enforcement (Powers and Responsibilities) Act 2002* (the **LEPRA**) by extending the powers available to police officers to interrogate digital devices when investigating serious crimes.
- 2.10 Section 75B of the LEPRA currently allows police officers to operate equipment to access data, at premises that are the subject of a search warrant, if an officer believes on reasonable grounds that the data could be seized under the warrant.
- 2.11 Items [1] to [6] of the Bill would amend section 75B to authorise police to access and copy data from a device that is seized under a warrant and moved to another location, if they believe on reasonable grounds that this data could be seized under the warrant.
- 2.12 The Minister explained that the proposed amendment would:

... overcome difficulties that law enforcement agencies can experience when they are unable to bring specialists and particular equipment to the scene of a search warrant. It will also overcome the problem of the time required to access and/or copy the data at the premises potentially exceeding the time for execution of the warrant.

Schedule 7 of the Bill seeks to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* (the LEPRA) to expand the powers of law enforcement agencies to interrogate digital devices when investigating serious crimes. Section 75B of the LEPRA currently allows police officers to operate equipment to access data, at premises that are the subject of a search warrant, if they believe on reasonable grounds that the data could be seized under the warrant. The proposed amendments would expand these powers by allowing police officers to access and copy data from a device that has been moved to another location not subject to a warrant, if they believe on reasonable grounds that the data could be seized under the warrant. By allowing police officers to access and copy data without a warrant, the Bill would provide law enforcement officers with wide discretionary powers that may impact an individual's right to privacy.

The Committee recognises that these provisions are intended to address issues that law enforcement agencies are currently experiencing, including difficulties with bringing specialists and specialised equipment to the scene of a search warrant, and the time required to access data at a premises potentially exceeding the time for executing a search warrant. However, the Committee remains of the view that the power to copy and access an individual's data should be exercised under a warrant, unless there are exceptional circumstances, because of the potential impacts on privacy rights. For this reason, the Committee refers the matter to Parliament for consideration.

Reversal of the onus of proof – unexplained wealth orders

- 2.13 The Bill proposes to insert section 28A(3A)(b) into the *Criminal Assets Recovery Act 1990*. The proposed section would clarify that in proceedings against a person for an unexplained wealth order, the burden of proof is on the person to prove that, on the balance of probabilities, the person's current or previous wealth is not, or was not illegally acquired property or the proceeds of an illegal activity.

The Bill seeks to insert section 28A(3A)(b) into the *Criminal Assets Recovery Act 1990*. This section provides that, in proceedings against a person for an unexplained wealth order, the burden of proof is on the respondent to prove that that, on the balance of probabilities, their current or previous wealth was not from illegally acquired property or the proceeds of crime. This provision would allow for the confiscation of assets if the respondent cannot discharge the onus of proof to prove that their wealth was not obtained from illegal activity.

By shifting the burden of proof from the applicant to the respondent, and requiring them to prove the necessary elements, this provision would reverse the onus of proof. A reversal of onus of proof would usually undermine a person's right to the presumption of innocence, which protects an accused person's right to be presumed innocent until proven guilty.

However, the Committee notes that unexplained wealth orders are made under a civil forfeiture scheme and there is no risk of criminal penalty under the scheme. The Committee also notes that the respondent would only be required to prove matters on the balance of probabilities, which is lower than the criminal standard of proof. Further, the Committee acknowledges that the Bill proposes to only target individuals with significant unexplained wealth, exceeding \$250,000 in money or exceeding \$2 million or more in assets, for the purposes of deterring illegal activity. For these reasons, the Committee makes no further comment.

Removal of knowledge of age as a fault element

- 2.14 Section 351A(2) of the *Crimes Act 1900* currently prohibits a person from recruiting a child to carry out, or assist in carrying out, a criminal activity. The Bill proposes to insert section 351A(2B), which would increase the maximum penalty for this offence to 12 years' imprisonment.
- 2.15 Proposed section 351A(2A) would also prohibit a person from recruiting a child to carry out, or assist in carrying out, a criminal activity in circumstances of aggravation. The proposed maximum penalty for this offence is 15 years' imprisonment.
- 2.16 Proposed section 351A(2B) provides that, in proceedings for an offence under sections 351A(2) and 351A(2A), it is not necessary to prove that the accused knew the age of the child who was recruited to carry out, or assist in carrying out, the criminal activity.
- 2.17 The Minister explained the policy rationale behind the proposed amendment in her second reading speech. She said the changes are:

... consistent with how the offence of recruiting a child to engage in criminal activity currently operates and reflects the approach in the offence of using a child for the production of child abuse material in section 91G of the *Crimes Act 1900*. The hugely detrimental impact of recruiting a child to engage in a serious crime is the same regardless of the person's level of knowledge. Where an offender was not aware of the child's age when committing such an offence, this can be taken into account by sentencing courts when assessing the offence's objective seriousness.

The Bill would insert section 351A(2B) into the *Crimes Act 1900*, which provides that it is not necessary to prove that an accused person knew the age of a child recruited to carry out, or assist in carrying out, a criminal activity. This provision would therefore remove knowledge of age as a fault element for the offences under existing section 351A(2) and proposed section 351A(2A), which both relate to recruiting a child to engage in criminal activity. By removing knowledge of age as a fault element, this provision would depart from the common law principle that the mental element of 'fault' should be proven to establish criminal liability.

However, the Committee notes that the Bill would only remove knowledge of age as a specific fault element, and that the prosecution would still be required to prove the mental element of the offences more broadly. The Committee also acknowledges that the proposed amendments are intended to protect children, and that they are consistent with the approach taken for existing offences under the *Crimes Act 1900*, including the offence of using a child for the production of child abuse material. In the circumstances, the Committee makes no further comment.

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

Commencement by proclamation

- 2.18 Clause 2 of the Bill provides that Schedule 7, items [1] to [6], would commence on a day or days to be appointed by proclamation. As noted above, Schedule 7 seeks to amend the LEPR, which would grant additional powers to law enforcement officers that are executing search warrants.
- 2.19 In her second reading speech, the Minister explained that the reason for the delay in commencement is to recognise that '... there are some minor regulatory amendments that are required to be put in place concerning application forms before this amendment can commence.'

Schedule 7, items [1]-[6] of the Bill would commence by proclamation. This Schedule would amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to grant additional powers to law enforcement officers that are executing search warrants.

The Committee generally prefers legislation to commence on a fixed date or on the date of assent to provide certainty for affected persons, particularly where the provisions would affect individual rights or obligations. Commencement by proclamation effectively delegates the

role of Parliament in determining when legislation commences to the Executive.

However, the Committee acknowledges the practical reasons for allowing a flexible start date. In this case, minor regulatory amendments regarding application forms need to be made prior to the commencement of the provisions in Schedule 7. In the circumstances, the Committee makes no further comment.

3. Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No. 2)*

Date introduced	14 May 2026
House introduced	Legislative Assembly
Member with carriage	Mr James Griffin MP
	*Private member's bill

Purpose and description

3.1 The objects of the Bill are as follows:

- (a) to amend the *Electricity Infrastructure Investment Act 2020* to:
 - (i) make the efficient decommissioning of solar and wind energy infrastructure and the remediation of land on which the infrastructure was located objects of the Act
 - (ii) require the NSW renewable energy sector board to plan for how to achieve the objectives
- (b) to amend the *Protection of the Environment Operations Act 1997* to require:
 - (i) environment protection licences for solar electricity generating works
 - (ii) Ministerial consent for the transfer of a licence relating to solar or wind electricity generating works
- (c) to amend the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021* to impose conditions on development consents relating to solar and wind electricity generating works requiring:
 - (i) the decommissioning of the works and the remediation of the land on which the development is located
 - (ii) the giving of security to ensure compliance with decommissioning and remediation requirements.

Background

3.2 The Bill proposes to amend multiple Acts to provide for the management and regulation of renewable energy infrastructure, including the decommissioning and rehabilitation of solar and wind generation works.

3.3 During his second reading speech, Mr James Griffin MP said that the Bill:

... seeks to harmonise the New South Wales approach to decommissioning and to provide financial assurance in partnership with local governments, with industry and, importantly, with the communities that deserve it.

3.4 Mr Griffin also stated that the Bill:

... provides a sensible framework for the entire renewable energy project life cycle; protects regional landholders and communities; and aligns with industry leaders like the Clean Energy Council. It is proportionate and fair, it focuses on the circular economy, and it restores investor and community certainty, which is eroding as I speak.

3.5 The Committee notes that the Bill substantially reintroduces the Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026, which was introduced by Mr Griffin on 5 February 2026 and lapsed on 19 March 2026, in accordance with Legislative Assembly Standing Order 105. The Committee reported on that bill in Digest No. 41/58 and made no comment in respect of the issues set out in section 8A of the *Legislation Review Act 1987*.

Issues considered by the Committee

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

4. Road Transport Legislation Amendment (Demerit Point Integrity Taskforce) Bill 2026

Date introduced	13 May 2026
House introduced	Legislative Assembly
Member with carriage	The Hon Jenny Aitchison MP

Purpose and description

- 4.1 The object of the Bill is to amend the *Road Transport Act 2013*, regulations under that Act and the *Fines Act 1996* to implement particular recommendations of the Demerit Point Integrity Taskforce, including amendments to:
- (a) require a person who nominates an overseas driver as the liable person for a camera recorded or parking offence to give the passport number and country of issue of the passport for the overseas driver
 - (b) clarify that the nomination of a person as the liable person for an offence (the **nominated person**) may be rejected if:
 - (i) the nominated person disputes the nomination
 - (ii) the information in the nomination is insufficient to correctly identify the nominated person
 - (iii) the nomination has been falsely provided
 - (iv) on other grounds prescribed by the regulations
 - (c) create a new offence for falsely disputing a nomination, consistent with the offence for falsely nominating a person
 - (d) create an obligation on the responsible person for a vehicle who is given a penalty notice for a parking offence for which demerit points are incurred to nominate the person in charge of the vehicle at the time of the offence, consistent with the obligation in relation to camera recorded offences
 - (e) enable demerit points recorded against the nominated person in the demerit points register to be deleted after payment of the related fine if new evidence establishes the nominated person was not the actual offender and to be reallocated to the person to whom the penalty notice was originally issued in particular circumstances
 - (f) enable demerit points deleted from the demerit points register to be restored against a person in particular circumstances, including where a driver licence

sanction to which the demerit points relate has been lifted or has not been fully served, to accurately reflect the demerit points the person has incurred

- (g) provide that drivers are required to serve the full period of a suspension imposed for speeding and drug or alcohol offences in circumstances where the suspension is interrupted by a disqualification
- (h) amend the good behaviour provisions to provide that:
 - (i) unrestricted driver licence holders who incur up to 24 demerit points are eligible to elect a 12-month good behaviour period as an alternative to the applicable period of licence suspension or licence ineligibility
 - (ii) unrestricted driver licence holders who incur at least 25 but not more than 30 demerit points may, on grounds of undue hardship or other exceptional circumstances, apply to Transport for NSW for approval to serve a 12-month good behaviour period as an alternative to the applicable period of licence suspension or licence ineligibility
 - (iii) a suspended or ineligible driver may elect a 12-month good behaviour period after the suspension or licence ineligibility period has commenced, but with no pro rata reduction of the 12-month good behaviour period
 - (iv) a suspended or ineligible driver who elects a 12-month good behaviour period after the suspension or ineligibility period has commenced and breaches the terms of the good behaviour period will be suspended for twice the original suspension period, with no discount or pro rata deduction for a part of the suspension or ineligibility period served before electing the 12-month good behaviour period
- (i) ensure a person cannot avoid a licence suspension by lodging an appeal with the court and upgrading the relevant licence while the appeal is being determined to benefit from a higher demerit points threshold
- (j) remove redundant references to Transport for NSW making a discretionary decision in circumstances where a visiting driver's exemption from licence holding requirements automatically ceases because the driver incurs 13 or more demerit points.

Background

- 4.2 The Bill seeks to amend the *Road Transport Act 2013* and related regulations, and the *Fines Act 1996* to implement recommendations of the Demerit Point Integrity Taskforce (the **Taskforce**).
- 4.3 In her second reading speech, the Hon Jenny Aitchison MP, Minister for Roads, explained that the Taskforce was established in 2024 after the discovery of fraudulent activity relating to the demerit point scheme in NSW, including the selling and purchasing of demerit points on social media.

- 4.4 The Minister explained that the Bill addresses the Taskforce's recommendations in relation to the nomination process for camera-detected offences, the way in which demerit points are applied, and the operation of good behaviour provisions.

Issues considered by the Committee

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

Commencement by proclamation

- 4.5 Clause 2 provides that the Bill would commence on a day or days to be appointed by proclamation.
- 4.6 In her second reading speech, the Minister explained that the Bill would commence by proclamation '... so that the necessary system changes at Transport and Revenue NSW can be put in place before the new measures become operational.'

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 implement the necessary system changes before the proposed measures become operational. For this reason, the Committee makes no further comment.

Part Two – Regulations with comment

1. Petroleum (Onshore) Amendment (Petroleum Exploration Licence) Regulation 2026

Date tabled	LA: 5 May 2026 LC: 5 May 2026
Disallowance date	LA: 25 June 2026 LC: 15 September 2026
Minister responsible	The Hon Courtney Houssos MLC

Purpose and description

- 1.1 The object of the Regulation is to amend the Petroleum (Onshore) Regulation 2016 (the **Principal Regulation**) to provide for general administrative fees payable for applications for petroleum exploration licences.

Issues considered by the Committee

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

Significant change to the petroleum exploration scheme

- 1.2 Under Part 3 of the *Petroleum (Onshore) Act 1991* (the **Act**), a person may apply for a petroleum title. 'Petroleum title' is defined at section 3 of the Act as an exploration licence, assessment lease, production lease or special prospecting authority in force under the Act.
- 1.3 Section 12 of the Act allows regulations to determine the value of administrative fees for processing petroleum title applications. Previously, Schedule 1 of the Principal Regulation set an administrative fee of \$50,000 for applications for a petroleum title.
- 1.4 The Regulation amends Schedule 1 to change the administrative fee for exploration licence applications specifically, from \$50,000 to \$1,000. Other petroleum title applications continue to incur a \$50,000 administration fee.
- 1.5 On 6 May 2026, Ms Sue Higginson MLC gave notice of a motion to disallow the Regulation in the Legislative Council. The motion is yet to be moved and considered in the Upper House.
- 1.6 On the same day, Ms Higginson asked a question of the Hon Courtney Houssos MLC, Minister for Natural Resources, during Question Time, which referred to the '... opening up (of) western New South Wales for gas drilling, including by offering gas corporations a 98 per cent discount on license applications, taking the fee from \$50,000 down to \$1,000.'

- 1.7 In the course of Ms Higginson's supplementary question to the Minister, she also commented on the environmental impacts of gas fracking, stating:

Fracking is one of the most harmful industrial activities that any corporation can endeavour to undertake on the landscape. It does harm to water resources. We have all seen that in the United States and around the world.

The Regulation reduces the administrative fee for applications for petroleum exploration licences from \$50,000 to \$1,000. Applications for other kinds of petroleum titles, such as assessment leases, production leases and special prospecting authorities, retain the \$50,000 administrative fee.

By reducing the previous administration fee for exploration licences by 98 per cent, the Regulation significantly lowers the barrier to entry for petroleum exploration and represents a significant change to the petroleum title scheme under the *Petroleum (Onshore) Act 1991*. The Committee is of the view that such matters should be dealt with through primary legislation to ensure an appropriate level of parliamentary oversight. This is particularly the case where the reduced barrier to entry may have significant policy implications, including potentially harmful impacts on water resources and landscapes.

The Committee notes that notice of a motion to disallow the Regulation was given in the Legislative Council on 6 May 2026. This motion is yet to be moved and considered in the Upper House. Noting the significance of the amendments, the Committee refers the matter to Parliament for consideration.

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. [Local Court Act 2007 – Erratum](#)

The object of the Erratum is to correct an error in the NSW Government Gazette No 119 of 27 March 2026 (NSWGG-2026-119-4). The words 'Bail Granted' on page 1 of Annexure A are replaced with 'Bail Refused'.

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

2. [Local Court Act 2007 – Practice Note – Domestic and Personal Violence Proceedings](#)

The Practice Note is issued for the purpose of outlining procedures to be adopted in summary proceedings for domestic violence offences. It applies to application proceedings, pursuant to the *Crimes (Domestic and Personal Violence) Act 2007* (the **Act**), in the Local Court, and summary proceedings in the Local Court for domestic violence offences, as defined in section 11 of the Act.

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

3. [Crimes \(Interstate Transfer of Community Based Sentences\) Regulation 2026](#)

The object of the Regulation is to repeal and remake, with minor changes, the Crimes (Interstate Transfer of Community Based Sentences) Regulation 2020, which would otherwise be repealed on 1 September 2026 by the *Subordinate Legislation Act 1989*, section 10(2).

The Regulation:

- (a) declares the Australian Capital Territory to be a participating jurisdiction for the *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*
- (b) prescribes the details that must be entered in the local register for the registration of an interstate community based sentence.

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

- (a) matters of a machinery nature
- (b) matters arising under legislation that is substantially uniform or complementary with legislation of the Australian Capital Territory
- (c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

The Regulation is made under the *Crimes (Interstate Transfer of Community Based Sentences) Act 2004* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

4. [Fisheries Management \(Possession Limit\) \(Blue Swimmer Crab\) Order 2026](#)

The object of the Order is to impose a possession limit on the quantity of fish that a person may have in their possession in any specified circumstances. A possession limit of zero is imposed from the Order for Blue Swimmer Crabs (*Portunus armatus*) with a measurement of less than 6.5 cm.

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

5. [Water Management \(General\) Amendment \(Miscellaneous\) Regulation 2026](#)

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

- (a) to create an exemption from the requirement to obtain a water supply approval for the construction or use of a permeable structure on the bed of a river for the purpose of enhancing geomorphic processes to control the flow of the river
- (b) to make minor amendments to correct cross-references and other matters.

The Regulation is made under the *Water Management Act 2000* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

6. [Electoral Funding Amendment Regulation 2026](#)

The object of the Regulation is to insert a transitional provision consequent on the enactment of the *Electoral Legislation Amendment (Elections) Act 2026* in relation to public access to disclosures of reportable political donations.

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

7. [Plumbing and Drainage Amendment \(Plumbing and Drainage Work Exemptions\) Regulation 2026](#)

The object of the Regulation is to amend the Plumbing and Drainage Regulation 2017 to exempt certain plumbing and drainage work involving a sanitary drainage system from a particular requirement of the Plumbing Code of Australia if the work complies with deemed-to-satisfy provisions set out in that Regulation.

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

8. [Public Health \(Tobacco\) Amendment Regulation 2026](#)

The object of the Regulation is to amend the Public Health (Tobacco) Regulation 2022 for the following purposes:

- (a) to require the Commissioner of Police to take reasonable steps to give the apparent owner of illicit goods that have been seized a copy of a certificate obtained under the *Public Health (Tobacco) Act 2008* (the **Act**), section 50T(4) before the Commissioner disposes of the goods
- (b) to clarify the purpose of certain references to the Act.

The Regulation is made under the *Public Health (Tobacco) Act 2008* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

9. [Transport Administration \(General\) Amendment \(Willbriggie Safety Improvements\) Regulation 2026](#)

The object of the Regulation is to amend the Transport Administration (General) Regulation 2018 to permit part of the disused Yanco to Hay railway line at Willbriggie to be used for roads or road infrastructure for the purposes of road safety improvements.

The Regulation is made under the *Transport Administration Act 1988* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

10. [Child Protection Legislation Amendment Regulation 2026](#)

The object of the Regulation is to amend:

- (a) the Child Protection (Working with Children) Regulation 2013:
 - (i) to omit a redundant definition
 - (ii) to allow the Children’s Guardian to make information on the working with children register available to employees of the NSW Early Learning Commission
 - (iii) to allow the Children’s Guardian to, with a worker’s consent, disclose to the head of the NSW Early Learning Commission that a criminal record check did not disclose a criminal record for the worker
- (b) the Children’s Guardian Regulation 2022:
 - (i) to impose requirements under the *Children’s Guardian Act 2019* on the NSW Early Learning Commission by prescribing the NSW Early Learning Commission as:
 - (A) a child safe organisation
 - (B) a prescribed agency
 - (C) a Schedule 1 entity
 - (ii) to prescribe fee amounts and provide for the annual indexation of the amounts.

The Regulation is made under the *Child Protection (Working with Children) Act 2012* and the *Children’s Guardian Act 2019*. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

11. [Notice of Reservation of a Regional Park \(NSWGG-2026-154-2\)](#)

The Notice reserves an area of land as part of the Wollli Creek Regional Park.

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

12. [Notice of Reservation of a Regional Park \(NSWGG-2026-154-3\)](#)

The Notice reserves an area of land as part of the Wollli Creek Regional Park.

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

13. [Notice of Reservation of a Regional Park \(NSWGG-2026-154-4\)](#)

The Notice reserves an area of land as part of the Edmondson Regional Park.

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

14. [Notice of Reservation of a Regional Park \(NSWGG-2026-154-5\)](#)

The Notice reserves an area of land as part of the Coffs Coast Regional Park.

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

15. [Notice of Reservation of a Nature Reserve \(NSWGG-2026-154-6\)](#)

The Notice reserves an area of land as part of the Mount Seaview Nature Reserve.

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

16. [The Association of Australian Certifiers Professional Standards Scheme](#)

The Scheme is prepared by the Association of Australian Certifiers (the **AAC**) for the purposes of limiting occupational liability to the extent to which such liability may be limited under the *Professional Standards Act 1994*. The Scheme applies to Full Members and Student Members of the AAC who are practising Registered Certifiers, and will have force in New South Wales.

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

17. [The Surveyors Australia Professional Standards Scheme](#)

The Scheme is prepared by Surveyors Australia Ltd (**SA**) for the purposes of limiting occupational liability to the extent to which such liability may be limited under the *Professional Standards Act 1994*. The Scheme applies to all Scheme Participating Members of SA who are a Corporate Member, Individual Member or a Corporate Employee Member. The Scheme will have force in New South Wales and the Australian Capital Territory, Northern Territory, Queensland, South Australia, Tasmania, Victoria, and Western Australia. To the extent that the Scheme applies to limit liability in the other jurisdictions, it is subject to the professional standards legislation of those jurisdictions.

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

18. [The Australian Institute of Building Surveyors Professional Standards Scheme](#)

The Scheme is prepared by the Australian Institute of Building Surveyors (the **AIBS**) for the purpose of limiting occupational liability to the extent to which such liability may be limited under the *Professional Standards Act 1994*. The Scheme applies to all Practising Members of the AIBS. The Scheme will have force in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia. To the extent

that the scheme applies to limit liability in the other jurisdictions, it is subject to the professional standards legislation of those jurisdictions.

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

19. [Road Transport \(General\) Amendment \(Parking Enforcement\) Regulation 2026](#)

The object of the Regulation is to amend the Road Transport (General) Regulation 2021 to:

- a) include, in the schedule of declared organisations, the new Maitland Hospital as an area of operations of the Hunter New England Local Health District
- b) remove Wingecarribee Council as a council that has opted in to issuing lower-level penalty notices for certain parking offences.

The Regulation is made under the *Road Transport Act 2013*, including sections 23, the general statutory rule-making power, and 24(1) and Schedule 1, clause 6. It does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

20. [Centennial Park and Moore Park Trust Amendment \(Moore Park East Parking Restrictions\) Regulation 2026](#)

The object of the Regulation is to amend the Centennial Park and Moore Park Trust Regulation 2024 to prescribe the date from which a particular area of Trust land under the *Centennial Park and Moore Park Trust Act 1983* (the **Act**) is closed to parking of vehicles.

The Regulation is made under section 20AA(1)(b)(ii) of the Act and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

21. [Community Services Sector \(Portable Long Service Leave\) \(Levy Determinations\) Order 2026](#)

The object of the Order is to prescribe rates used to calculate the amount of long service leave levy payable by an employer or contractor in the community services sector.

The Order is made under sections 41(1) and (2) of the *Community Services Sector (Portable Long Service Leave) Act 2024* and does not appear to engage with any of the issues set out in section 9 of the *Legislation Review Act 1987*.

Appendices

Appendix One – Functions of the Committee

The functions of the Legislation Review Committee are set out in the *Legislation Review Act 1987*:

8A Functions with respect to Bills

- (1) The functions of the Committee with respect to Bills are:
 - (a) to consider any Bill introduced into Parliament, and
 - (b) to report to both Houses of Parliament as to whether any such Bill, by express words or otherwise:
 - (i) trespasses unduly on personal rights and liberties, or
 - (ii) makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, or
 - (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions, or
 - (iv) inappropriately delegates legislative powers, or
 - (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.
- (2) A House of Parliament may pass a Bill whether or not the Committee has reported on the Bill, but the Committee is not precluded from making such a report because the Bill has been so passed or has become an Act.

9 Functions with respect to regulations

- (1) The functions of the Committee with respect to regulations are:
 - (a) to consider all regulations while they are subject to disallowance by resolution of either or both Houses of Parliament,
 - (b) to consider whether the special attention of Parliament should be drawn to any such regulation on any ground, including any of the following:
 - (i) that the regulation trespasses unduly on personal rights and liberties,
 - (ii) that the regulation may have an adverse impact on the business community,
 - (iii) that the regulation may not have been within the general objects of the legislation under which it was made,
 - (iv) that the regulation may not accord with the spirit of the legislation under which it was made, even though it may have been legally made,

- (v) that the objective of the regulation could have been achieved by alternative and more effective means,
 - (vi) that the regulation duplicates, overlaps or conflicts with any other regulation or Act,
 - (vii) that the form or intention of the regulation calls for elucidation, or
 - (viii) that any of the requirements of sections 4, 5 and 6 of the [Subordinate Legislation Act 1989](#), or of the guidelines and requirements in Schedules 1 and 2 to that Act, appear not to have been complied with, to the extent that they were applicable in relation to the regulation, and
- (c) to make such reports and recommendations to each House of Parliament as it thinks desirable as a result of its consideration of any such regulations, including reports setting out its opinion that a regulation or portion of a regulation ought to be disallowed and the grounds on which it has formed that opinion.
- (1A) The Committee is not precluded from exercising its functions under subsection (1) in relation to a regulation after it has ceased to be subject to disallowance if, while it is subject to disallowance, the Committee resolves to review and report to Parliament on the regulation.
- (2) Further functions of the Committee are:
- (a) to initiate a systematic review of regulations (whether or not still subject to disallowance by either or both Houses of Parliament), based on the staged repeal of regulations and to report to both Houses of Parliament in relation to the review from time to time, and
 - (b) to inquire into, and report to both Houses of Parliament on, any question in connection with regulations (whether or not still subject to disallowance by either or both Houses of Parliament) that is referred to it by a Minister of the Crown.
- (3) The functions of the Committee with respect to regulations do not include an examination of, inquiry into or report on a matter of Government policy, except in so far as such an examination may be necessary to ascertain whether any regulations implement Government policy or the matter has been specifically referred to the Committee under subsection (2) (b) by a Minister of the Crown.

Appendix Two – Unconfirmed extracts of minutes

Meeting no. 47

TIME & DATE: 3:01PM, 25 MAY 2026

**LOCATION: ROOM 1136 AND
VIDEOCONFERENCE**

MEMBERS PRESENT

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

APOLOGIES

Mr Murphy.

OFFICERS PRESENT

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

AGENDA ITEM

1. Confirmation of minutes

Resolved, on the motion of Mr Hagarty: That the minutes of the meeting of 11 May 2026 be confirmed.

2. ***

3. Consideration of bills with comment for Legislation Review Digest 46/58

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

- a) Crimes (Sentencing Procedure) Amendment (Good Character) Bill 2026
- b) Crimes Legislation Amendment (Organised and Gang-related Crime Reforms) Bill 2026
- c) Road Transport Legislation Amendment (Demerit Point Integrity Taskforce) Bill 2026.

4. Consideration of bills without comment for Legislation Review Digest 46/58

Resolved, on the motion of Ms Munro: That the Committee adopts the draft report regarding the Energy and Other Legislation Amendment (Renewable Energy Infrastructure) Bill 2026 (No. 2).

5. Consideration of regulations with comment for Legislation Review Digest 46/58

Resolved, on the motion of Ms Higginson: That the Committee adopts the draft report regarding the Petroleum (Onshore) Amendment (Petroleum Exploration Licence) Regulation 2026.

6. Regulations without comment for Legislation Review Digest 46/58

Resolved, on the motion of Ms Stuart: That the Committee adopts the regulations without comment as Part Three to Digest No. 46/58.

7. Legislation Review Digest 46/58

Resolved, on the motion of Ms Davis:

- That appropriate minute extracts of this meeting be published as Appendix Two of the Digest.
- That the Committee adopts the Legislation Review Digest No. 46/58 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 Higginson: That the Committee consider all regulations and statutory instruments that are currently subject to disallowance (tabled 12 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 1 June 2026.