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ISSUE 4



## PUBLIC SECTOR NEWSLETTER - VICTORIA

The transfer of 40 young offenders from Parkville Youth Justice Centre to Barwon Prison has been the most discussed Victorian Government initiative this past fortnight.

However the Government has also announced reviews into Suppression Orders and Access to Justice.

VCAT and the Ombudsman have delivered their annual reports; the Commissioner for Privacy and Data Protection has released a mobile application to assist originators of material to assess potential business impacts if confidentiality, integrity or availability of information is compromised; and a public hearing has been announced as part of the inquiry into electronic voting.

Meanwhile, there were some interesting cases on setting aside findings made under the *Coroners Act 2008* (Vic), the power of Magistrates to return items seized pursuant to a Search Warrant and, yet again, the review of Medical Panel Determinations.

### MEDIA

**Young Offenders To Be Put In Adult Prison**  
Around 40 young offenders will be sent to Barwon Prison in the coming days following rioting at the Parkville Youth Justice Centre. The Andrews Labor Government has today gazetted a secure unit within the prison to operate as a youth remand centre and youth justice custodial centre.

<http://www.premier.vic.gov.au/young-offenders-to-be-put-in-adult-prison/>

**Locking up Victoria's young offenders in adult jails 'may breach legal obligations'**

Human rights advocates raise concerns about the Victorian Government's plan to house young offenders in adult prisons following recent riots at youth justice facilities.

<http://www.abc.net.au/news/2016-11-16/concerns-about-victorian-plan-to-put-teenagers-in-adult-prisons/8029618>

**Review of Suppression Order Laws in Victoria**

Attorney General Martin Pakula has appointed former Supreme Court of Appeal Judge Frank Vincent to review the Open Courts Act 2013 and consider whether it strikes the right balance between people's privacy, fair court proceedings and the public's right to know.

<http://www.premier.vic.gov.au/review-of-suppression-order-laws/>

**Access to Justice Review in Victoria**

On 22 October 2015, the Attorney-General, the Hon Martin Pakula MP, asked the Department of Justice and Regulation to undertake the Access to Justice Review. The review, released on Tuesday 4 October 2016, contains 60 recommendations. These recommendations are now being considered by the Victorian Government.

<https://myviews.justice.vic.gov.au/accesstojustice>

## CASES

### [Hecht v Coroners Court of Victoria \[2016\] VSC 635](#)

ADMINISTRATIVE LAW – Appeal pursuant to s 84 of the Coroners Act 2008 (Vic)  
– Application pursuant to s 77 to set aside findings – Interests of justice s 87A  
– Question of law s 87 – New facts and circumstances – Test for new facts and circumstances under s 77 – Discretion of coroner to set aside findings – Senior next of kin not notified of potential for adverse findings – Denial of procedural fairness.

### [Siddique v Martin \[2016\] VSCA 274](#)

STATUTORY INTERPRETATION – Search warrants – Power of Magistrates' Court to order return of seized items – Challenge to finding of absence of power – Whether power under s 78(6) of the Magistrates' Court Act 1989 covers items seized during execution of warrant, but not named or described in warrant – Common law extension of search and seizure on a search warrant – Whether items were seized 'under a search warrant' – Appeal allowed – Crimes Act 1958, s 465 – Magistrates' Court Act 1989, ss 75, 76, 78

### [Venture Campbellfield v Kemal Isitman & Ors \[2016\] VSC 665](#)

ADMINISTRATIVE LAW – Judicial review – O 56 Supreme Court (General Civil Procedure) Rules 2015 – Accident Compensation Act 1985 – Workplace Injury Rehabilitation and Compensation Act 2013 – Review of Medical Panel opinion – Panel considered information beyond statement of agreed facts in the joint statement – Procedural fairness.

### [Central Gippsland Health Service v Cooper \[2016\] VSC 658](#)

JUDICIAL REVIEW – Medical negligence – Defendant broke ankle playing football – Alleged misapplication of plaster cast on broken ankle – Whether Panel failed to take into account and disregard impairment from an unrelated injury or cause, namely the football injury – Whether Panel misconstrued the requirement for an evidentiary basis for a pre-existing impairment – Whether Panel took an irrelevant consideration into account –

Whether Panel misdirected itself in applying s 28LL(3) of the Wrongs Act 1958 – Wrongs Act 1958, ss 28LB, 28LE, 28LF, 28LH, 28LL & 28LN.

## PRACTICE AND PROCEDURE

### VCAT Annual Report hearing

The Victorian Civil and Administrative Tribunal (VCAT) has released its [Annual Report 2015-16](#), which details progress during the 2015-16 period against VCAT's Building a Better VCAT: Strategic Plan 2014-17.

### VIC CPDP: BIL Mobile App

As official information is created, the originator of the material is required to assess potential business impacts if the confidentiality, integrity or availability of the information were compromised. To assist users in performing this assessment, CPDP has created a BIL App. For more details on the information assessment process and protective markings, see [VPDSF Information Security Guide](#)

<https://www.cpdp.vic.gov.au/menu-resources/resources-mobile-apps/bil-mobile-app-apple-android-devices>

### VIC Ombudsman: 2016 Annual Report Snapshot

<https://www.ombudsman.vic.gov.au/getattachment/8a4f65bc-ed41-4836-9b83-ff4c5a7cf578>

### Inquiry into Electronic Voting - Public hearing

The Electoral Matters Committee will hold a public hearing on Monday 5 December on its inquiry into electronic voting.

<http://www.parliament.vic.gov.au/emc/inquiry/419>

## LEGISLATION

### Victoria

#### Statutory Rules made

- No. 134: Drugs, Poisons and Controlled Substances Amendment (Cannabis and Tetrahydrocannabinols) Regulations 2016

## Acts Assented to

- No. 63: Child Wellbeing and Safety Amendment (Oversight and Enforcement of Child Safe Standards) Act 2016
- No. 64: Powers of Attorney Amendment Act 2016
- No. 65: Sentencing (Community Correction Order) and Other Acts Amendment Act 2016

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## HELP DESK SERVICES

Thomson Geer is delighted to offer access to the Victorian Government to its Legal Help Desk on our usual terms of engagement and as set out below.

### Scope

We are pleased to be able to work collaboratively with the Victorian Government to offer the following services (at no charge):

- advice regarding discrete and non-complex legal queries – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate or, short written advice (max. 1 page);
- the opportunity to 'brainstorm' or discuss topical and complex legal issues with industry specialists – up to 30 minute teleconference with a Partner, Special Counsel or relevant Senior Associate; and
- a dedicated librarian, Warwick Johns, to assist Victorian Government departments and agencies research relevant case law, statutes, regulations and articles.

### (Help Desk Services)

Please note that the Help Desk Services are only available in respect of any matter which is currently unallocated i.e. to this firm or any other firm.

### Key Contact and Help Desk Process

You can access the Help Desk by:

- (a) Calling 02 8248 5810; or
- (b) Emailing [legalhelpdesk@tglaw.com.au](mailto:legalhelpdesk@tglaw.com.au)

Once relevant details are received from you (whether that be by email or over the phone) it will be directed to the appropriate Thomson Geer Partner, Special Counsel or Senior Associate. The Help Desk number and email address will be monitored during normal business hours (9.00 am to 5.00 pm (EST), Monday to Friday).

Thomson Geer will use its best endeavours to provide the Help Desk Services within one business day of the query being logged.

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