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ISSUE 13



PUBLIC SECTOR NEWSLETTER - VICTORIA

Our thirteenth Victorian Public Sector Newsletter is dominated by a raft of justice measures announced in the State budget, including upgraded IT systems, a new case management system, the appointment of specialist support staff and security upgrades. These measures were welcomed by the Law Institute of Victoria.

The past fortnight also saw the announcement Victorian Courts will soon be able to detain violent offenders after their sentences end and the appointment of a new County Court judge.

MEDIA

A safer and fairer legal system for Victoria

The Victorian Budget 2017/18 will deliver \$89.2 million to update the ageing IT systems at the Children's and Magistrates' Courts. A new case management system will be developed to ensure better information sharing between the courts and other agencies (02 May 2017).

[A safer and fairer legal system for Victoria](#)

Keeping Victorians safe from serious offenders

The \$308 million investment in the Victorian Budget 2017/18 will implement the recommendations of the Harper Review, commissioned after the tragic death of 17-year-old Masa Vukotic. A new authority will also be established to provide independent and rigorous oversight of the scheme (02 May 2017).

[Keeping Victorians safe from serious offenders](#)

Transforming our courts to keep victims of family violence safe

The courts will receive extra resources, including specialist support staff or security upgrades to keep victim survivors and their families safe. A new case management system will provide better access to information across the courts, including details relevant to family violence intervention order applications (02 May 2017).

[Transforming our courts to keep victims of family violence safe](#)

Supporting Victims of Crime in the Justice System in Victoria

Victims of crime will be better protected and supported through the justice system under a suite of new measures announced by the Government today. The Government will invest \$2.6 million to introduce 'intermediaries' – or skilled communication specialists – who will work with victims and help them to give evidence to police and in court (07 May 2017).

[Supporting Victims Of Crime In The Justice System](#)

Understanding Reoffending To Improve Community Safety

An expert consortium conducting world-leading research into serious violent and sexual offending has been set up in Melbourne, with a \$1.6 million from the Government. The consortium is part of the

Government's response to the Harper Review, commissioned after the tragic death of 17-year-old Masa Vukotic (26 April 2017).

[Understanding Reoffending To Improve Community Safety](#)

LIV welcomes budget measures to reduce family violence

The Law Institute of Victoria today welcomed the measures outlined by the Victorian Government in the State Budget to tackle family violence and improve court infrastructure and services (04 May 2017).

[LIV welcomes budget measures to reduce family violence](#)

Serious violent offenders in Victoria could be detained after sentences end

Victorian courts will soon be able to detain the "worst of the worst" violent offenders after their sentences end, under changes prompted by the murder of Melbourne schoolgirl Masa Vukotic (27 April 2017).

[Serious violent offenders in Victoria could be detained after sentences end](#)

New Judge Appointed To The County Court

Attorney-General Martin Pakula has announced the appointment of Ted Woodward SC as a new commercial judge of the County Court (03 May 2017).

[New Judge Appointed To The County Court](#)

CASES

Wilson v Transport Accident Commission [2017] VSC 209

STATUTORY INTERPRETATION – transport accident legislation – availability of compensation for bicycle riders involved in collisions with motor vehicles – requirement for cyclist to be 'travelling to or from [the] place of employment' – cyclist lived and undertook employment on farm – during purely recreational ride beginning and ending at farm, cyclist ran into motor vehicle and suffered serious injuries – Victorian Civil and Administrative Tribunal affirmed decision of Transport Accident Commission refusing application for compensation – appeal – whether tribunal erred in law in interpreting eligibility provision so as to require a connection between ride and employment at the place – upon introduction of accident compensation for bicycle riders,

similar eligibility provisions in workers' compensation legislation had long-accepted meaning requiring that connection – whether Parliament intended to adopt this meaning – whether workers compensation and transport accident compensation legislation in pari materia – 'transport accident', 'travelling to or from his or her place or employment' – Victorian Civil and Administrative Tribunal Act 1998 (Vic) s 148(1) <http://www.austlii.edu.au/au/cases/vic/VSC/2017/209.html>

Drew v Patrick Stevedores Holdings Pty Ltd [2017] VSC 231

PRACTICE AND PROCEDURE – Application to amend defence – workplace incident – Limitation of Actions Act 1958 (Vic) – whether substantial delay will be caused by the amendment – wasted costs – whether there is irreparable element of unfair prejudice caused by amendment – whether grant of amendment will lessen public confidence – Supreme Court (General Civil Procedure) Rules 2015, r 36 – Aon Risk Services Australia v Australia National University (2009) 239 CLR 175 considered – Application granted.

<http://www.austlii.edu.au/au/cases/vic/VSC/2017/231.html>

Country Fire Authority v McGregor (Review of Regulation) [2017] VCAT 582

Freedom of Information Act 1982 – dispute within Country Fire Authority Brigade – allegations of bullying and harassment – preliminary investigation – allegations found not substantiated – complainant seeks documents relevant to the investigation – whether documents exempt under sections 30(1) internal working documents exemption, 33(1) personal affairs exemption and/or 35(1)(b) document is provided in confidence exemption.

<http://www.austlii.edu.au/au/cases/vic/VCAT/2017/582.html>

Muto v Shepparton City Council [2017] VSC 210

ADMINISTRATIVE LAW – Victorian Civil and Administrative Tribunal ('VCAT') – Leave to appeal – Order that the Respondent not be required to pay the Applicant's costs – Where application to adjourn refused – Whether denial of natural justice – Whether the VCAT reasons for decision inadequate – State of Victoria v Turner [2009] VSC 66 – Whether the VCAT properly

constituted – Whether discretion as to costs order miscarried – Victorian Civil and Administrative Tribunal Act 1998 sch 1 cls 46E, 46F – Whether application validly made by Respondent – Leave refused.

<http://www.austlii.edu.au/au/cases/vic/VSC/2017/210.html>

Energy Technology Australia Pty Ltd v Owners Corporation PS 439401J [2017] VSC 145

JUDICIAL REVIEW – Review of VCAT decision – Whether Tribunal gave adequate reasons – Whether path of reasoning disclosed – Whether reasons allow for inferences to be drawn as to the findings of the Tribunal – Whether recitation of the law is sufficient – Secretary to the Department of Justice v YEE [2012] VSC 447 referred to and applied – Insufficient reasons given OWNERS CORPORATIONS – Owners Corporations Act 2006 (Vic) ss 12, 47, 48 50, 52, 53, 165, 167 – Defendant owners corporation passed special resolutions to install fire alarm system to allow residential use of some lots – Powers of VCAT under s 165 – Powers under s 165 not ‘at large’ – Christ Church Grammar School v Bosnich (2010) 34 VAR 23 followed and applied.

<http://www.austlii.edu.au/au/cases/vic/VSC/2017/145.html>

PRACTICE AND PROCEDURE

Department of Justice: Reducing trauma and delay for witnesses and victims

Make a submission on proposed reforms to criminal procedures to reduce trauma experienced by victims of crime and reduce delay in the criminal justice system. A discussion paper contains a number of proposals for change to the law (05 May 2017).

<https://engage.vic.gov.au/reducing-trauma-and-delay-for-witnesses-and-victims>

LEGISLATION

Victoria

Proclamations and Commencements

No. 17: Racing and Other Acts Amendment (Greyhound Racing and Welfare Reform) Act 2016

Commencement: Ss 1-10(1), 11-14, 17-20 on 04/05/2016: SG (No. 131) 3/5/2016 p. 1 Ss 10(2), 15, 16 on 10/04/2017: SG (No. 111) 4/4/2017 p. 1 Not yet in operation: Ss 10(2), 15, 16: on 10/04/2017: SG (No. 111) 4/4/2017 p. 1

Statutory Rules made

No. 17: Powers of Attorney Amendment Regulations 2017

Commencement: 01/05/2017: reg. 3 Not yet in operation: Regs 1-10: on 01/05/2017: reg. 3 Sunset Date: 12/04/2027

No. 21: County Court (Chapter I Amendment No. 11) Rules 2017

Date of Making: 24/04/2017 Commencement: 27/04/2017: rule 3 Not yet in operation: N/A Sunset Date: 24/04/2027

No. 26: Evidence (Miscellaneous Provisions) (Transcript Fees) Regulations 2017

Date of Making: 2/05/2017 Commencement: 28/05/2017: reg. 3 Not yet in operation: Regs 1 - 5: on 28/05/2017: reg. 3 Sunset Date: 02/05/2027

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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 03 8080 3604; or
- (b) Emailing 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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