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ISSUE 15



PUBLIC SECTOR NEWSLETTER - VICTORIA

The criminal justice system has again dominated the last fortnight's news feed, with an expanded role for public custody officers, the creation of a Sentencing Guidelines Council, and new laws to improve court safety and jury selection.

Meanwhile, both the Law Institute of Victoria and the Victorian Bar have welcomed the government's access to justice commitments.

We hope you will find this edition of our Victorian Public Sector Newsletter of interest.

MEDIA

New Senior Role for Police Custody Officers

The Government has created a new supervising role for Police Custody Officers (PCOs) to free up sworn police from custody duties so they can spend more time on the frontline targeting aggravated burglaries, family violence and recidivist offending (25 May 2017).

[New Senior Role For Police Custody Officers](#)

Victorian Community to Have Its Say on Sentencing

In an Australian first, the Government will move to create a Sentencing Guidelines Council to engage with the community and provide guidance to the courts on sentencing for specific crimes. The Victorian model will be based on the highly successful sentencing councils in the United Kingdom (25 May 2017).

[Victorian Community to Have Its Say on Sentencing](#)

New Laws to Improve Court Safety and Jury Selection

The Government has introduced new laws in Parliament to make Victorian courts safer and reduce potential discrimination against women during jury selection. The Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017 will give Court Security Officers (CSOs) stronger powers to keep the community safe, particularly vulnerable victims and witnesses (24 May 2017).

[New Laws to Improve Court Safety and Jury Selection](#)

Biggest Ever Shake Up To Target Violent Crime

Victoria's largest ever suite of legislative measures will be introduced today to crackdown on serious offenders, toughen sentences for serious and violent crimes, and increase consequences for young offenders, as the Government takes further steps to keep the community safe (24 May 2017).

[Biggest Ever Shake Up To Target Violent Crime](#)

Victoria to overhaul youth crime laws, increase sentences

Victorian teenagers charged with serious violent crimes will face trials in adult courts, and maximum sentences in the Children's Court will increase, under new Victorian laws that have been criticised by human rights groups (24 May 2017).

[Victoria to overhaul youth crime laws, increase sentences](#)

Victorian Bar welcomes Government access to justice commitments

The Victorian Bar welcomes the Victorian Government's response to the Department of Justice and Regulation's Access to Justice Review as a significant investment in Victoria's justice system (24 May 2017).

[Victorian Bar welcomes Government access to justice commitments](#)

Access to Justice measures will help vulnerable Victorians

The LIV today welcomed the state government's response to the Access to Justice Review which has embraced most of the review's 60 recommendations in a move that will significantly increase services to vulnerable Victorians (23 May 2017).

<https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/May-2017/Access-to-Justice-measures-will-help-vulnerable-Vi>

Major Investment to Improve Access to Justice

Disadvantaged Victorians will have better access to legal advice, support and information, thanks to a \$34.7 funding, which is part of the Government's response to the Access to Justice Review, which made 60 recommendations aimed at reducing the barriers disadvantaged people face when accessing the legal system (23 May 2017).

[Major Investment To Improve Access To Justice](#)

For a copy of the Government's response, visit <https://engage.vic.gov.au/accesstojustice>

CASES

[Pizza Fellas Pty Ltd v Eat Now Pty Ltd \(No 2\) \[2017\] VSC 296](#)

PRACTICE AND PROCEDURE – VCAT – Application for costs – Costs thrown away – Extent of "damnification" – VCAT Act 1998, s 109 – Martin v Fasham Johnson [2007] VSC 54; Earnshaw v Loy (No 2) [1959] VicRp 44; [1959] VR 252.

[Country Care Pty Ltd v Murphy \[2017\] VSC 309](#)

JUDICIAL REVIEW – Medical Panel – Procedural fairness – Failure to provide

employer with opportunity to address finding – Employer and worker agree that procedural fairness denied – Orders in the nature of certiorari and mandamus granted.

[Mortimer v West \(in his role as Deputy State Coroner\) \(Refusal to re-open investigation\) \[2017\] VSC 293](#)

ADMINISTRATIVE LAW – Plaintiff's appeal of Coroner's decision to refuse to re-open the investigation – Whether the Coroner made any error of law – Whether it is necessary or desirable in the interests of justice to allow the appeal – Test for 'new facts and circumstances' in s 77(3)(a) – Meaning of 'appropriate' in s 77(3)(b) – Appeal dismissed – Hecht v Coroners Court of Victoria [2016] VSC 635 – Coroners Act 2008 (Vic), ss 84, 87, 87A.

[McSteen v Architects Registration Board of Victoria \[2017\] VSC 276](#)

ADMINISTRATIVE LAW – Application for leave to appeal on question of law – draft notice of appeal failed to state any question of law despite Applicant having been ordered to do so – no grounds of appeal with sufficient prospects of success to warrant the granting of leave to appeal – s 148 Victorian Civil and Administrative Tribunal Act 1998 – ss 32, 42 Architects Act 1991 – regs 6, 14, 16 Architects Regulations 2004 – r 4.11(1)(b) Supreme Court (Miscellaneous Civil Proceedings) Rules 2008.

[Sisalem v The Herald & Weekly Times Pty Ltd \[2017\] VSC 254](#)

ADMINISTRATIVE LAW – Victorian Civil and Administrative Tribunal ('VCAT') – Leave to appeal – Order dismissing application for breach of s 8 of the Racial and Religious Tolerance Act 2001 – Catch the Fire Ministries v Islamic Council [2006] VSCA 284; (2006) 15 VR 207 – Where article published in newspaper reporting comments as to links between Islamic teaching and terrorism – Whether the VCAT failed to consider content of the article as evidence of breach – Victorian Civil and Administrative Tribunal Act 1998 s 148(1) – Myers v Medical Practitioners Board of Victoria [2007] VSCA 163; (2007) 18 VR 48 – Application dismissed.

LEGISLATION

Victoria

Bills Introduced and Second Read in the first House – 26 May 2017

Bail Amendment (Stage One) Bill
Children and Justice Legislation Amendment (Youth Justice Reform) Bill
Disability Amendment Bill
Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill
Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill
Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill
Sentencing Amendment (Sentencing Standards) Bill

Statutory Rules made**No. 32: Supreme Court (Chapter I Email Service Amendment) Rules 2017**

Date of Making: 25/05/2017
Commencement: 01/08/2017: rule 3
Not yet in operation: Rules 1 -19: on 01/08/2017: rule 3 Sunset Date: 25/05/2027

No. 33: Supreme Court (Chapter I Senior Master's Powers Amendment) Rules 2017

Date of Making: 25/05/2017
Commencement: 01/06/2017: rule 3
Not yet in operation: N/A Sunset Date: 25/05/2027

No. 34: Supreme Court (Chapter VI Powers of Judicial Registrars Amendment) Rules 2017

Date of Making: 25/05/2017
Commencement: 29/05/2017: rule 3 Not yet in operation:
N/A Sunset Date: 25/05/2027

No. 35: Victorian Civil and Administrative Tribunal (Amendment No. 17) Rules 2017

Date of Making: 25/05/2017
Commencement: 01/06/2017: rule 3 Not yet in operation:
N/A Sunset Date: 25/05/2027

No. 36: County Court (Chapter I Recovery of Pro Bono Costs Amendment) Rules 2017

Date of Making: 26/05/2017
Commencement: 06/06/2017: rule 3 Not yet in operation: Rules 1 -4: on 06/06/2017: rule 3 Sunset Date: 26/05/2027

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