



PUBLIC SECTOR NEWSLETTER - VICTORIA

The State Budget dominated the past fortnight, with significant increases to spending on the justice system being welcomed by all working within it. One measure announced was the proposed appointment of a number of new Magistrates and Judges.

Speaking of which, the past fortnight saw the appointment of Mandy Fox to the County Court bench, and John O'Donoghue as a director of Legal Aid Victoria.

The past fortnight also saw the introduction or enactment of legislation relating to elections, counter-terrorism and a national redress scheme for victims of institutional abuse.

Finally, the Supreme Court and VCAT delivered decisions of interest on McKenzie friends, the validity of warrants and the application of public interest override under the Freedom of Information Act 1982.

IN THE MEDIA

Electoral Legislation Amendment Bill 2018 Introduced to Victoria Parliament

On 8 May 2018, the Electoral Legislation Amendment Bill 2018 (Vic) (the "Bill") was introduced by the Hon Martin Pakula MP, to the Victorian Parliament. The Bill is currently before the Legislative Assembly, where it is awaiting further discussion.

<https://www.timebase.com.au/news/2018/AT04694-article.html>

New Victorian Legal Aid Board Director Appointed

The Government recently announced the appointment of John O'Donoghue as a new Director to the Board of Victoria Legal Aid.

<https://www.premier.vic.gov.au/new-victoria-legal-aid-board-director-appointed/>

New Counter-Terrorism Laws To Keep The Community Safe

Victoria's counter-terrorism laws will be overhauled to better protect Victorians from terror attacks, under a

suite of reforms to be introduced by the Government. The Justice Legislation Amendment (Terrorism) Bill 2018 allows for preventative detention of terror suspects by police for up to four days, creates a presumption against bail and parole.

<https://www.premier.vic.gov.au/new-counter-terrorism-laws-to-keep-the-community-safe/>

New Laws Introduced For National Redress Scheme

A National Redress Scheme for Victorian survivors of institutional child sexual abuse is a step closer under new laws introduced by the Government. Under the Victorian National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018, the Government will refer powers to the Commonwealth to ensure that Victorian state institutions.

<https://www.premier.vic.gov.au/new-laws-introduced-for-national-redress-scheme/>

New County Court Judge Appointed

The Government has announced the appointment of criminal barrister Mandy Fox QC as a judge of the County Court. Ms Fox has more than 20 years' experience as a barrister appearing for both the prosecution and defence in a wide range of criminal matters.

<https://www.premier.vic.gov.au/new-county-court-judge-appointed-4/>

Boost For Family Violence Perpetrator Programs

The Government announced five organisations will share in a \$1.75 million grants package to help reduce family violence by expanding the delivery of specialist perpetrator intervention programs.

<https://www.premier.vic.gov.au/boost-for-family-violence-perpetrator-programs/>

Victorian Bar welcomes funding boost to justice system

The Victorian Bar welcomes the Victorian Government's \$257.4 million funding boost to the justice system, announced in 's State budget. The Victorian Bar

also welcomes the announcement of \$37.3 million in increased funding for Legal Aid. More police and prosecutors, and changes to bail and sentencing laws, make legal aid more important than ever.

<https://www.vicbar.com.au/news-events/victorian-bar-media-release-victorian-bar-welcomes-funding-boost-justice-system>

Stronger, safer, fairer: investing in Victoria's justice system

More judges and magistrates will be recruited and there will be more support for victims of crime thanks to new investments included in the Victorian Budget 2018/19 that will see a stronger, safer justice system in Victoria.

<https://www.premier.vic.gov.au/stronger-safer-fairer-investing-in-victorias-justice-system/>

Billion-dollar Vic Budget boost will increase access to justice

A major funding increase for mental health services and the justice system, announced in the Budget, will help to support some of the most vulnerable members of our society, the Australian Lawyers Alliance (ALA) said recently.

<https://www.lawyersalliance.com.au/news/billion-dollar-vic-budget-boost-will-increase-access-to-justice>

CASES

Members Equity Bank Pty Ltd v Elefterescu [2018] VSC 223

PRACTICE AND PROCEDURE – Appeal from an Associate Justice's refusal to permit a lay advocate to appear – Relevant principles to be applied with respect to applications for parties to be assisted in court by 'McKenzie Friends' and lay advocates – No error by the Associate Justice – Appeal dismissed.

PRACTICE AND PROCEDURE – Principles to be applied on application for summary judgment – Plaintiff granted summary judgment and defendants' counterclaims summarily dismissed.

CONSTITUTIONAL LAW – Notice requirements under s 78B Judiciary Act (Cth) only arises if the constitutional point is real and substantial.

Healey v RSPCA [2018] VSC 190

JUDICIAL REVIEW – Validity of warrants – Delegation – Form of authorisation – 'authorise' – Procedural fairness – Reasonable grounds – Warrants too wide – Prevention of Cruelty to Animals Act 1986 ss 1, 24C, 24G, 24K, 38.

JUDICIAL REVIEW – Execution of warrants – Reasonableness – Prevention of Cruelty to Animals Act 1986 ss 24G, 24K. STATUTES – Interpretation – Delegation – 'in and for Victoria' – Interpretation of Legislation Act s 48.

Cowen v Monash University (Review and Regulation) [2018] VCAT 694

Freedom of Information Act 1982 (Vic) ss 30, 33 and 50(4) – whether emails between Monash University personnel following complaint relating to email from the applicant to municipal councillors concerning same-sex marriage are exempt from release – public interest override.

GMW v Victoria Police (Review and Regulation) [2018] VCAT 667

Freedom of Information Act 1982 (Vic), sections 30(1) and 50(4) – internal working documents concerning decisions not to prosecute alleged breaches of intervention orders – whether exemption applies – whether contrary to the public interest to release – whether public interest override ought to apply in any event.

LEGISLATION

Victoria

Bills Introduced and Second Read in the first House – 09 May 2018

Electoral Legislation Amendment Bill.

Justice Legislation Amendment (Terrorism) Bill.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018.

Serious Offenders Bill 2018.

Statutory Rules as made

No 32 Supreme Court (Appeals to the Trial Division, Judicial Review and Further Powers of Judicial Registrars Amendment) Rules 2018

These Rules come into operation on 1 May 2018.

Proclamations

No. 61 Voluntary Assisted Dying Act 2017

Commencement: Ss 1-3, 5, 92-102 on 01/07/2018: SG (No. 190) 24/4/2018 p. 1 Not yet in operation: Ss 4, 6-91, 103-143 Ss 1-3, 5, 92-102: on 01/07/2018: SG (No. 190) 24/4/2018 p. 1

Acts

Justice Legislation Amendment (Court Security, Juries and Other Matters) Act 2017

Act Number: 38/2017; Parts 3-5 (ss 15-43), Parts 9 Divisions 1, 2 (sections 64-66), 5 (sections 70, 71) of this Act came in by forced commencement 1 May 2018 s.2(4) Date of commencement: 1 May 2018.

Access Victorian legislation at www.legislation.vic.gov.au

KEY CONTACTS

PANEL RELATIONSHIP CONTACTS

Your contacts responsible for navigating our firm, connecting you with appropriate expertise and achieving maximum efficiency and your Newsletter editors.



Cameron Roberts

Partner
+61 3 9641 8696
+61 438 510 885
croberts@tglaw.com.au



Loretta Reynolds

Partner, Markets
+61 3 8080 3705
+61 403 069 819
lreynolds@tglaw.com.au

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 library resource 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.