



PUBLIC SECTOR NEWSLETTER - VICTORIA

Welcome to this fortnight's edition of our Public Sector Newsletter.

This fortnight saw the passing of further crime legislation in the lead up to the state election, with a bill enacted to keep police killers in prison, a bill introduced to strengthen monitoring of serious youth offenders and a bill announced to disrupt criminal gangs.

IBAC also released a report that identified the key corruption risks associated with the work undertaken by the State's regulatory authorities.

The government also made five appointments to the Magistrates' Court.

The Court of Appeal dismissed an appeal of a coroners' refusal to re-open an investigation and the Supreme Court determined two defamation actions, including one addressing the issue of whether Google results constitute publication.

We hope you enjoy this fortnight's edition of our Public Sector Newsletter.

IN THE MEDIA

Victoria passes Bill to keep Craig Minogue and other police killers in prison

The Victorian Government has passed the Corrections Amendment (Parole) Bill 2018 (VIC) ('the Bill') on 26 July 2018, after introducing it on 24 July 2018. The Bill is for the purpose of making restrictive conditions for making a parole order for prisoners.

<https://www.premier.vic.gov.au/strengthening-parole-to-keep-police-killers-in-prison/>

Victorian Bill to strengthen monitoring of serious youth offenders

The Children, Youth and Families Amendment (Youth Offender Compliance) Bill 2018 (VIC) ('the Bill') was introduced by Attorney-General Martin Pakula to the Victorian Legislative Assembly on 25 July 2018.

<https://www.premier.vic.gov.au/tougher-monitoring-for-young-parolees/>

IBAC reveals corruption risks faced by Victoria's regulatory authorities

Victoria's anti-corruption agency, IBAC, has identified key corruption risks associated with activities undertaken by the state's regulatory authorities in a new report that has been released.

<http://www.ibac.vic.gov.au/media-releases/article/ibac-reveals-corruption-risks-faced-by-victorias-regulatory-authorities>

Addressing injustice and improving the rights of victims

The Victorian government has introduced new laws into Parliament that make clear that relevant historical care and protection orders are not to be treated as convictions or findings of guilt.

<https://www.premier.vic.gov.au/addressing-injustice-and-improving-the-rights-of-victims/>

Strengthening laws to disrupt criminal gangs

The Government is giving police the powers they need to disrupt serious and organised crime in Victoria through new laws introduced into Parliament. The Justice Legislation Amendment (Unlawful Association and Criminal Appeals) Bill 2018 will amend and clarify laws designed to prevent the formation of criminal networks, by prohibiting those convicted of serious offences from associating with others.

<https://www.premier.vic.gov.au/strengthening-laws-to-disrupt-criminal-gangs/>

'Not about gangs' Victoria defends 'extraordinary' new anti-association powers

The Victorian Government is under attack over new laws that would give police expanded powers to prevent people as young as 14 from associating with those convicted of serious offences.

<http://www.abc.net.au/news/2018-07-24/changes-to-victorian-anti-association-laws-attacked/10028986>

Strengthening parole to keep police killers in prison

The amendments to the Corrections Act 1986 will name Craig Minogue and strengthen the legislation to ensure any other future or current offenders who kill police officers are not released on parole.

<https://www.premier.vic.gov.au/strengthening-parole-to-keep-police-killers-in-prison/>

IN PRACTICE AND COURTS**Court Appointments in Victoria**

The government has announced the appointment of five new magistrates to the Magistrates' Court.

<https://www.premier.vic.gov.au/five-new-magistrates-appointed/>

CASES**[Mortimer v West \(in his role as Deputy State Coroner\) \[2018\] VSCA 188](#)**

ADMINISTRATIVE LAW — Coroner — Refusal by coroner to re-open investigation — Appeal to single judge, pursuant to Coroners Act 2008 s 84, dismissed — Did judge err in failing to find coroner applied wrong test under s 77(3)(b) on whether appropriate to re-open investigation? — Did judge err in failing to find interests of justice supported re-opening of investigation? — Leave to appeal granted — Appeal allowed — Hecht v Coroners Court of Victoria [2016] VSC 635 approved — Coroners Act 2008 ss 77, 84, 87 and 87A.

PRACTICE AND PROCEDURE — Application to rely on expert report before coroner but not before judge — Misreporting of conclusion of expert report — Application granted for purposes of accuracy — Supreme Court (General Civil Procedure) Rules 2015 r 64.13(1).

[Cables v Winchester \[2018\] VSC 392](#)

DEFAMATION — Application for assessment of damages — Facebook publications — 'Grapevine effect' — Followed principles in Wilson v Bauer Media & Anor [2017] VSC 521 — Defamation severe and consequences substantial — Damages including aggravated damages awarded \$200,000.

[Defteros v Google Inc LLC \[2018\] VSCA 176](#)

DEFAMATION — Publication — Publication of results of internet search engine — Whether owner of internet search engine is a publisher of the results of searches — Google Inc v Duffy (2017) 129 SASR 304 and Trkulja v Google LLC [2018] HCA 25 referred to.

PRACTICE AND PROCEDURE — Application for leave to appeal — Pleadings — Whether judge erred in failing to strike out pleadings denying that search engine proprietor was a publisher of search results — Primary judge's decision correct — Application for leave to appeal refused — Supreme Court (General Civil Procedure) Rules 2015, r 23.02

LEGISLATION**Victoria****Bills introduced and second read in the first House - 27 July 2018**

Children, Youth and Families Amendment (Youth Offender Compliance) Bill

Corrections Amendment (Parole) Bill

Disability Service Safeguards Bill

Justice Legislation Amendment (Unlawful Association and Criminal Appeals) Bill

Victims and Other Legislation Amendment Bill

Acts assented to**[No. 29: Corrections Amendment \(Parole\) Act 2018](#)**

Assent: 31/07/2018 SG (No. 360) 31/7/2018 p. 1
Commencement: Ss 1-7 on 01/08/2018: s. 2 Not yet in operation: N/A

[No. 30: Electoral Legislation Amendment Act 2018](#)

Assent: 31/07/2018 SG (No. 360) 31/7/2018 p. 1
Commencement: Ss 1-45, 68 on 01/08/2018: s. 2(1) S. 47(2) on 01/08/2018: s. 2(2) Ss 46, 47(1), 48-67 on 25/11/2018: s. 2(3)

Proclamations**[No. 27: Serious Offenders Act 2018](#)**

Assent: 26/06/2018 SG (No. 304) 26/6/2018 p. 1
Commencement: Ss 1-372 on 03/09/2018: SG (No. 356) 31/7/2018 p. 1 Not yet in operation: Ss 1-372: on 03/09/2018: SG (No. 356) 31/7/2018 p. 1

Statutory Rules made**[No. 110: Magistrates' Court \(Fees\) Amendment Regulations 2018](#)**

Date of Making: 31/07/2018 Commencement: 01/08/2018: reg. 3 Not yet in operation: N/A Sunset Date: 31/07/2028

[No. 111: Electoral Amendment Regulations 2018](#)

Date of Making: 31/07/2018 Commencement: Regs 1-15, 18-24 on 01/08/2018: reg. 3(1) Reg. 16 on 31/07/2018: reg. 3(2) Reg. 17 on 25/11/2018: reg. 3(3) Not yet in operation: Reg. 17: on 25/11/2018: reg. 3(3) Sunset Date: 31/07/2028

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.