



## PUBLIC SECTOR NEWSLETTER - VICTORIA

In this edition we make reference to the Open Courts and Other Acts Amendment 2019 which received Royal assent earlier this month. This act amends existing laws to reinforce the presumption in favour of open justice and the disclosure of information in Victorian courts.

We also include reference to the 'Starts with us' discussion paper prepared by Women's Legal Service Victoria aiming to support and encourage legal and justice professionals and organisations to take action to prevent violence against women.

We hope you enjoy this edition of our Victorian Public Sector Newsletter.

### IN THE MEDIA

#### Victorian Ombudsman Deborah Glass elected to board of global Ombudsman body

Victorian Ombudsman Deborah Glass has been elected to the board of the International Ombudsman Institute (IOI), which connects more than 190 Ombudsman offices world-wide

<https://www.ombudsman.vic.gov.au/News/Media-Releases/Victorian-Ombudsman-Deborah-Glass-elected-to-board>

#### Hate crime laws rarely used by Australian authorities, police figures reveal

Hate crime laws meant to stop vilification and threats of violence towards minority groups are rarely used by police and prosecutors in Australia according to an analysis of police figures, and a US expert says authorities have their heads in the sand.

<https://www.abc.net.au/news/2019-05-03/hate-crimes-rarely-prosecuted-in-australia/11055938>

#### Steelvision Conduct referred to Victoria Police

This inquiry has identified suspected fraudulent conduct by the company in relation to its Latrobe Valley Economic Facilitation Fund grant and the department has now referred these matters to Victoria Police for investigation

<https://www.premier.vic.gov.au/steelvision-conduct-referred-to-victoria-police/>

#### Suppression order overhaul passes parliament

Victims of sexual or family violence who want to speak publicly about their experiences will have more freedom to do so thanks to new laws. *The Open Courts and Other Acts Amendment Bill 2019*, which passed Parliament earlier this month, amends existing laws to reinforce the presumption in favour of open justice

<https://www.premier.vic.gov.au/suppression-order-overhaul-passes-parliament/>

#### New scheme to support family law cross-examination ban

The Family Law Act 1975 has been amended to ban direct cross examination in cases where there is family violence. The changes will apply to hearings that occur from 11 September 2019 onwards. The Commonwealth Family Violence and Cross-examination of Parties Scheme is funded by the Commonwealth Government and will be administered in Victoria by Victoria Legal Aid (VLA)

<http://www.legalaid.vic.gov.au/about-us/news/new-scheme-to-support-family-law-cross-examination-ban>

#### IBAC forwards complaint regarding government advertising to the Victorian Public Sector Commission

IBAC, Victoria's independent anti-corruption commission has forwarded a complaint from the State Opposition regarding a Victorian government advertising campaign to the Victorian Public Sector Commissioner for consideration

<https://www.ibac.vic.gov.au/media-releases/article/ibac-forwards-complaint-in-regards-to-government-advertising-to-the-victorian-public-sector-commission>

**IN PRACTICE AND COURTS****[AHRC: Commission calls for public submissions](#)**

The AHRC has released an issues paper for 'Free and Equal': An Australian conversation on human rights and has called for public submissions. Submissions are open until 12 July 2019

See the [terms of reference](#), and [issues paper](#)

**Victoria****[Open Courts and Other Acts Amendment Act 2019](#)**

Assented to 7 May 2019 - The main purposes of this Act are—(a)to amend the Open Courts Act 2013in relation to the prohibition and restriction of the publication of information in court and tribunal proceedings; and (b) to make related amendments to the Children, Youth and Families Act 2005and the Judicial Proceedings Reports Act 1958

**PUBLISHED - ARTICLES, PAPERS, REPORTS****[Sexism and gender inequality in the Victorian legal and justice sector](#)**

Monica Campo, Lynda Memery, Nina Ulasowski;  
Women's Legal Service Victoria: 30 April 2019

This discussion paper outlines stories from almost 300 legal sector professionals which show that sexual harassment and disrespect towards women is pervasive, women's career prospects are routinely stunted and victim-blaming is common

**CASES****[Kraft Foods Group Brands LLC v Bega Cheese Limited \(No 8\) \[2019\] FCA 593](#)**

COPYRIGHT – whether respondent's use of first applicant's "shippers" by placing its peanut butter products in them without permission and selling to supermarkets constitutes trade mark infringement under s 120(1) of the Trade Marks Act 1995 (Cth).

Competition and Consumer Act 2010 (Cth), Schedule 2, ss 4(1), 4(2), 17, 18, 22, 109, 210(1)

Trade Marks Act 1995 (Cth), s 120(1); Trademark Act of 1946 (USA), s 43(a)

**[Venerable Dr Peter Carlsson v Right Reverend John Ford \[2019\] FCA 584](#)**

HUMAN RIGHTS – application for interim injunction under s 46PP of the Australian Human Rights Commission Act 1986 (Cth) – where complaint to Australian Human Rights Commission pending – whether test under s 46PP is the same as test under s 46PO(6) – where Court proceedings pending – injunction sought by the applicant granted in part. Australian Human Rights Commission Act 1986 (Cth) ss 46P, 46PE, 46PF, 46PG, 46PH, 46PO

**[Total Transport Pty Ltd v Tasiopoulos \[2019\] VSC 266](#)**

ADMINISTRATIVE LAW – Judicial review – Opinion of a Medical Panel – Panel found that worker's physical injuries had resolved, but that worker had an incapacity for his pre-injury employment – Whether Panel's opinion not open, or grossly illogical or irrational – Whether Panel's reasons adequate – Proceeding dismissed – Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) ss 3, 160, 313.

**[Shao v AG Advanced Construction Pty Ltd \[2019\] VSC 266](#)**

BUILDING AND CONSTRUCTION– Whether termination under s 41 extinguishes damages claim for defective work ADMINISTRATIVE LAW – Appeals – Victorian Civil and Administrative Tribunal Act 1998, s 148 – Appeal allowed – Whether to exercise power of Tribunal to order refund – Whether to remit proceeding to Tribunal – Victorian Civil and Administrative Tribunal Act 1998 s 148(7)(b) and (c).

**[Country Fire Authority v Lockyer \(Review and Regulation\) \[2019\] VCAT 667](#)**

Review and Regulation List – Freedom of Information Act – exemptions – internal working documents – information provided in confidence – personal affairs – legal professional privilege – public interest override – s 30(i) – s 32 – s 33 – s 35(2)(b) – s 50(4)

**LEGISLATION****Victoria****Acts****[No 11 Open Courts and Other Acts Amendment Act 2019](#)**

Assented to 7 May 2019

**Statutes - New Versions****[Corrections Regulations 200940 / 18 - 26 April 2019](#)**

**[Corrections \(Victims Register\) Regulations 2014](#)** 25 002 - 28 April 2019

**[Corrections \(Police Gaols\) Regulations 2015](#)** 94 003 - 28 April 2019

**[County Court Civil Procedure Rules 2018](#)** 170 00 - 21 May 2019

Victorian legislation can be viewed at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

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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 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](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.