



PUBLIC SECTOR NEWSLETTER - VICTORIA

Welcome to Issue 81 of the Victorian Public Sector Newsletter.

This fortnight's news has been dominated by COVID-19 once again, with the Government passing four Bills in a one day parliamentary sitting in response to the pandemic. The Law Institute of Victoria maintains the changes to the justice system brought about by one of the Bills will require careful oversight. Meanwhile, the Supreme Court has issued guidance for criminal and civil proceedings affected by COVID-19.

In non-COVID-19 news, the Government has introduced tough new sanctions, with Victorian organisations that do not sign up to the National Redress Scheme at risk of losing government funding.

In the Courts, the Supreme Court has considered whether an entity is an employer for the purposes of the *Construction Industry Long Service Leave Act 1992* and the jurisdiction conferred by operation of Part IV of the *Property Law Act 1958*.

We have to stay home to stay safe and protect our health system so we hope this fortnight's edition of our Public Sector Newsletter will help you stay in touch.

COVID-19 USEFUL LINKS

[Department of Health & Human Services Website FAQs - 'Stay at home' and 'Restricted activities directions'](#)

[Information and advice for the business and industry \(non-healthcare\) sector](#)

[COVID-19 Plan for the Victorian Aged Care Sector Information and advice for early learning centres, schools, TAFE and training providers](#)

IN THE MEDIA

Coronavirus update for Victoria - 28 April 2020

The total number of coronavirus (COVID-19) cases in Victoria is 1351 – an increase of two since yesterday. There were no new deaths reported yesterday. To date, 17 people have died from coronavirus in Victoria. <https://www.dhhs.vic.gov.au/coronavirus-update-victoria-28-april-2020>

Legislation To Support Jobs, Services And Victorians Passes

Emergency measures to support Victorians, save lives, protect businesses and jobs, and continue delivering vital government services during the coronavirus pandemic have passed Victorian Parliament. The four Bills enable Victoria to respond to the unprecedented challenges created by coronavirus on our healthcare system and our economy. (24 April 2020) <https://www.premier.vic.gov.au/legislation-to-support-jobs-services-and-victorians-passes/>

Oversight of wide ranging Coronavirus changes to justice system important, says LIV

Legislation to introduce changes to the justice system as a result of Coronavirus are unprecedented and will require careful oversight to protect rights, according to the Law Institute of Victoria. (21 April 2020) <https://www.liv.asn.au/Staying-Informed/Media-Releases/Media-Releases/April-2020/Oversight-of-wide-ranging-Coronavirus-changes-to-j>

Temporary Emergency Measures to Manage Coronavirus Crisis

The Victorian Government will implement a range of temporary emergency measures to support Victorians and continue delivering the services we all rely on through the unprecedented challenges of the coronavirus crisis. (21 April 2020) <https://www.premier.vic.gov.au/temporary-emergency-measures-to-manage-coronavirus-crisis/>

Organisations on Notice to Join National Redress Scheme

Victorian organisations Who do not sign up to the National Redress Scheme will risk losing government funding, under tough new sanctions introduced by the Government. (19 April 2020) <https://www.premier.vic.gov.au/organisations-on-notice-to-join-national-redress-scheme/>

Outcome of IBAC's investigation into the conduct of Victoria Police officers at the Hares & Hyenas bookstore in Fitzroy in May 2019

IBAC Commissioner, the Honourable Robert Redlich QC said "The community is right to be concerned when someone is seriously injured during an interaction with police. Based on the findings from this investigation, IBAC has suggested a number of improvements be made to Victoria Police's systems and processes. (16 April 2020) <https://www.ibac.vic.gov.au/media-releases/article/outcome-of-ibac-s-investigation-into-the-conduct-of-victoria-police-officers-at-the-hares-hyenas-bookstore-in-fitzroy-in-may-2019>

IN PRACTICE AND COURTS

[Guidance for criminal proceedings affected by coronavirus](#)

17 April 2020 - The following guidance is provided for those practising in the Criminal Division of the Supreme Court, including in the Court of Appeal, in the current coronavirus (COVID-19) environment.

[Guidance for civil proceedings affected by coronavirus](#)

15 April 2020 - The following guidance is provided for those practising in the Supreme Court including the Court of Appeal, Commercial Court, Common Law Division, Cost Court and Probate in the current coronavirus (COVID-19) environment.

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Report on the appointment of a person to conduct the financial audit of the Victorian Auditor-General's Office](#)

VAGO: 23 April 2020

CASES

[CoINVEST Ltd v Citywide Service Solutions Pty Ltd \[2020\] VSC 190](#)

JUDICIAL REVIEW – Whether an entity was an 'employer' (i.e. not a 'public statutory body' constituted under the law of the Commonwealth or State of Victoria) within the meaning of the Rules of the Construction Industry Long Service Leave Fund/ Construction Industry Long Service Leave Act 1997 s 3 – Whether magistrate considered relevant factors – Whether magistrate provided adequate reasons for decision – Validity of notice issued under Construction Industry Long Service Leave Act 1997 s 10 – Local Government Act 1989 s 193.

[Stewart v Owen \[2020\] VSC 175](#)

ADMINISTRATIVE LAW – Appeal from decision of Victorian Civil and Administrative Tribunal – Whether Part IV of the Property Law Act 1958 confers jurisdiction to make declaration and order a co-owner to transfer his or her part interest in land to a co-owner – Whether correct legal test for imposition of constructive trust applied – Property Law Act s 225 & s 228 – Muschinski v Dodds [1985] HCA 78; (1985) 160 CLR 583 – Baumgartner v Baumgartner [1987] HCA 59; (1987) 164 CLR 137 – Miller v Martin [2020] VSCA 4 – Miller v Martin [2018] VSC 444 – Binns v Binns [2018] VCAT 759 – Pavlovich v Pavlovich (Real Property) [2012] VCAT 869.

[Pitman v Victorian Workcover Authority - WorkSafe Victoria \(Review and Regulation\) \[2020\] VCAT 487](#)

Review and Regulation List – Freedom of Information Act 1982 (Vic) ss 3, 25, 33 & 53A – Workplace Injury Rehabilitation and Compensation Act 2013 (Cth) – Victoria Police v Marke [2008] VSCA 218; (2008) 23 VR 223 – Page v Metropolitan Transit Authority (1988) 2 VAR 243 – Re F and Health Department (1988) 2 VAR 458 – meaning of the phrase 'by reason only of' in s 33(2) – sensitive personal information – Charter of Human Rights and Responsibilities Act 2006 (Vic).

LEGISLATION

Bills

[COVID-19 Omnibus \(Emergency Measures\) Bill 2020](#)

Date of second reading speech: 23 April 2020. The purpose is to temporarily amend certain Acts, and to temporarily empower the making of regulations, to modify the application of the law in Victoria in certain respects for the purpose of responding to the COVID-19 pandemic. Chapter 2—Temporary modification of the law by regulation Part 2.1—Regulations temporarily modifying Justice Acts and laws

[Appropriation \(Interim\) Bill 2020](#)

Date of second reading speech: 23 April 2020. Secures \$24.5 billion in emergency funding to save lives, support jobs and businesses, and set Victoria up to recover from the pandemic over the next two years

[Appropriation \(Parliament\) \(Interim\) Bill 2020](#)

Date of second reading speech: 23 April 2020. Provides funding for the ongoing operations of parliament and oversight bodies including IBAC.

Statutory Rules

Reminder: [No 125 Supreme Court Admiralty Rules 2019](#)

These Rules come into operation on 28 April 2020

KEY CONTACTS

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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.

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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