



PUBLIC SECTOR NEWSLETTER - VICTORIA

Welcome to our milestone 100th edition of our public sector newsletter.

In this edition of our public sector newsletter, you will read criticism of what is described as the Government's obsession with prisons following announcements in relation to prison construction. Somewhat paradoxically, this fortnight saw the passing of legislation reducing the unfair burden of minor historical offences.

Legal Aid Victoria has called for more inclusive juries, to coincide with the return of jury trials previously suspended as a result of COVID-19. To this end, the Supreme Court has issued a Practice Note relaxing restrictions on witness examination given the State's success in dealing with the pandemic.

In the Courts, the Supreme Court has considered the judicial review of a Medical Panel Determination under the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) and an application in relation to reasonable apprehension of bias, and VCAT has reviewed a decision under the *Freedom of Information Act 1982* (Vic).

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

IN THE MEDIA

HRLC: The Victorian Government must end its harmful obsession with expanding Victoria's prison system

The Victorian Government has made two announcements celebrating prison construction. It is their sixth media release regarding prison construction works in the last six months. (19 March 2021) <https://www.hrlc.org.au/news/2021/3/19/the-victorian-government-must-end-its-harmful-obsession-with-expanding-victorias-prison-system>

IBAC to resume public hearings into allegations of corrupt conduct in Victoria's public transport sector

The IBAC will resume public hearings into allegations of serious corrupt conduct within Victoria's public

transport sector, during the tendering, procurement and subsequent management of major contracts within V/Line and Metro. (19 March 2021) <https://www.ibac.vic.gov.au/media-releases/article/ibac-to-resume-public-hearings-into-allegations-of-serious-corrupt-conduct-in-victoria-s-public-transport-sector>

New Laws Give Victorians Hope To Turn Their Lives Around

Victorians who have carried the unfair burden of a minor historical offence will have a better chance to turn their lives around, thanks to new laws (The Spent Convictions Bill 2020) passed by Parliament. (18 March 2021) <https://www.premier.vic.gov.au/new-laws-give-victorians-hope-turn-their-lives-around>

IN PRACTICE AND COURTS

[IBAC Insights Issue 27, 16 March 2021](#)

Issue 27 of IBAC Insights includes a message from our Commissioner and features information on the prevention of corruption in public administration, the role of the Victorian Public Sector Commission, and Emerging public sector corruption risks in Victoria.

[Legal Aid Victoria: more inclusive juries](#)

Legal Aid Victoria has made a submission to the Victorian Law Reform Commission's (VLRC) review into inclusive juries, supporting change to reduce barriers that prevent people with disabilities participating in juries. (17 March 2021)

[Legal Aid Victoria: Interim active case management system for County Court](#)

The County Court is introducing an Interim Active Case Management model system (ACMS) for new initiations.

Supreme Court – Practice Notes

[Notice to the Profession - In Person Commercial Court and Common Law Division Trials](#)

From 6 April 2021, civil trials involving the cross-examination of one or more witnesses may be conducted in Court subject to the availability of a courtroom and appropriate safeguards (25 March 2021). 1

[SC CC 3 Commercial Arbitration Business \(first revision\)](#)

The purpose of this Practice Note is to describe and provide guidance on the procedures to be followed in the Arbitration List. This revised Practice Note was issued on 22 March 2021 and replaced the earlier version of this Practice Note issued on 30 January 2017.

County Court

[County Court of Victoria – revised court guide for the intermediary pilot program](#)

The County Court has released a revised Multi-jurisdictional court guide for the intermediary pilot program: Intermediaries and ground rules hearings. The Guide is available on the County Court's website here. (22 March 2021)

PUBLISHED - ARTICLES, PAPERS, REPORTS

[Reducing the harm caused by gambling](#)

The report examined whether the Foundation is achieving its intended outcomes and impacts, including through: understanding gambling harm, prevention programs and treatment services.

[Results of 2019–20 Audits: State-controlled Entities](#)

This report details the audit outcomes of the 286 state-controlled entities that were granted that relief. It brings together the results of the financial audits of the entities and provides Parliament assurance regarding their overall financial management and accountability.

[Outsourcing of parking fine internal reviews – a follow-up report](#)

This report provides an update on the use of private contractors to review parking fines in Victoria.

CASES

[Yildirim v A&L Windows Pty Ltd & Ors \[2021\] VSC 139](#)

ADMINISTRATIVE LAW – Judicial review – Opinion of a Medical Panel – Section 3 of the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) – Whether Medical Panel erred in making finding of 'no current work capacity' – Whether 'no current work capacity' includes psychological capacity to seek work – Whether 'no current work capacity' involves the worker's capacity 'for' work, not capacity 'to' work – Failure to take into account a relevant consideration – Adequacy of reasons – Appeal allowed – Richter v Driscoll 51 VR 95 applied – Wingfoot Australia Partners Pty Ltd v Kocack (2013) 252 CLR applied.

[Owners Corporation PS419696X v Goh & Ors \[2021\] VSC 126](#)

NATURAL JUSTICE – Former member of Building Appeals Board acting as expert witness – Whether reasonable apprehension of bias – Governing principles – Statutory context – Doctrine of necessity – Duties of an expert – Specialist members – Technical nature of jurisdiction – Failure to obtain leave to make

supplementary submissions – Pecuniary interest.

BUILDING – Building Appeals Board – Jurisdiction – Statutory framework – Sessional membership – Pecuniary interest provisions – Obligation of members – Duty of disclosure – Possible conflict between Board membership and activities as building practitioners

[Commissioner of State Revenue v Tucker \(Review and Regulation\) \[2021\] VCAT 238](#)

Review and Regulation List – Freedom of Information Act 1982; Application for review following decisions of Office of the Victorian Information Commissioner (OVIC) regarding two separate requests; whether documents exempt under ss 30, 32, 34(1) and/or 34(4); Consideration of public interest override under s 50(4); OVIC's decisions set aside; Exemptions claimed by the Applicant confirmed; No public interest proven requiring release of exempt documents; Applicant's decisions to deny access to disputed documents affirmed.

LEGISLATION

Statutory Rules

Service Victoria (Transfer of Births, Deaths and Marriages Identity Verification Functions) Regulations 2021 S.R. No.11/2021 14/03/2021: reg. 3

Supreme Court (Chapter I Appendices A and B Amendment) Rules 2021,

S.R. No.16/2021 01/04/2021: rule 3 SG (No. 129) 19/3/2021 p.

Supreme Court (Chapters I and VI Suppression Orders Amendment) Rules 202

1, S.R. No.17/2021 22/03/2021: rule 3 SG (No. 129) 19/3/2021 p. 1

Acts

[Justice Legislation Amendment \(System Enhancements and Other Matters\) Act 2021 \(Vic\)](#)

Act Number: 11/2021 Date of assent: 23 March 2021

[Constitution Amendment \(Fracking Ban\) Act 2021 \(Vic\)](#)

Act Number: 8/2021 Date of assent: 16 March 2021

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



Emma-Jane Stevens

Partner
+61 3 8535 3510
+61 414 371 361
estevens@tglaw.com.au



Bruce Crosthwaite

Partner
+61 3 9641 8618
+61 408 372 104
bcrosthwaite@tglaw.com.au

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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.

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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