

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

**LEGISLATIVE ASSEMBLY
FIFTY-EIGHTH PARLIAMENT
FIRST SESSION**

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autonomy but within a reporting framework that includes a clearer line of accountability to the responsible minister.

The bill is essentially a governance bill; it will not change any existing land uses. The existing land management acts, particularly the National Parks Act and the Crown Land (Reserves) Act 1978, with their checks and balances applying to a wide range of different circumstances relating to parks and reserves, will remain the principal source of powers and responsibilities for the land that Parks Victoria manages.

Overview of changes to be made by the bill

The bill will establish clear objects and functions for Parks Victoria. These cover the broad range of activities for which Parks Victoria is to be responsible and emphasise the need to protect, conserve and enhance the areas for which Parks Victoria will have direct responsibility. They also acknowledge the importance of traditional owner involvement in Victoria's national parks and other reserves, and that these areas are part of the broader landscape and that it is important for Parks Victoria to confer with and cooperate with the secretary and other land and water managers.

The bill will give Parks Victoria direct control and management of Victoria's national parks and other reserves, rather than relying on service agreements with the secretary or a relevant minister. Consequently, the bill will give Parks Victoria direct land management powers under the relevant land acts in relation to the land for which it is responsible. Several overarching responsibilities will remain with the secretary, the most notable being the responsibility for the prevention and control of fire, and recovery from fire. Parks Victoria will continue to support the secretary by providing staff and resources.

The bill will also introduce several improvements and efficiencies to assist Parks Victoria in its management of our parks and reserves:

it will enable the minister to issue a statement of obligations to Parks Victoria that will set out the broad expectations of the minister in relation to Parks Victoria performing its functions and exercising its powers;

it will require Parks Victoria to prepare a statewide land management strategy that will set out the general long-term directions, strategies and priorities for the protection, management and use of the land it manages;

it will give Parks Victoria an overarching power to prepare land management plans for the land it manages which may cover more than one park or reserve;

it will enable Parks Victoria to formally establish advisory committees to give it advice and information in relation to any of the land it manages or any of its functions;

it will enable the Governor in Council to make regulations for the management of land for which the existing regulation-making head of power is inadequate — for example, where an area managed by Parks Victoria has not been formally reserved for its intended purpose and which might comprise land with different land status; and

it will simplify the requirements for preparing corporate planning documents, including corporate and business

plans, in line with amendments made in 2017 to the Royal Botanic Gardens Act 1991 and the Zoological Parks and Gardens Act 1995.

Conclusion

In summary, the legislative reforms will mean that:

Parks Victoria will have comprehensive objects and functions, and land management powers and responsibilities in its own right;

there will be clearer governance arrangements and more efficient tools to achieve better management outcomes for Victoria's national parks and other reserves; and

there will be appropriate checks and balances to enable the minister to be clear about the performance expected of Parks Victoria by enabling the minister to issue statements of obligations and directions, and through the corporate planning process.

A strengthened Parks Victoria operating in a more efficient operating environment will help better realise the benefits to the environment and the community of well-managed parks and reserves and will enable it to be a world-class park management agency equipped to tackle the increasing park management challenges of the 21st century.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Wednesday, 7 March.

EMERGENCY MANAGEMENT LEGISLATION AMENDMENT BILL 2018

Statement of compatibility

Mr MERLINO (Minister for Emergency Services) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Emergency Management Legislation Amendment Bill 2018.

In my opinion, the Emergency Management Legislation Amendment Bill 2018, as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The Emergency Management Legislation Amendment Bill 2018 (the bill) establishes a new emergency management planning framework. Key features of the bill include new governance arrangements at the state, regional and municipal levels and core requirements when preparing emergency management plans.

The bill also clarifies the interaction between the statutory compensation scheme under the Victoria State Emergency Service Act 2005 and the common law. These changes remove existing impediments for Victoria State Emergency Service (VICSES) volunteers who are injured or suffer property damage during their emergency service from receiving common-law damages.

Human rights issues

Section 9 of the charter provides that every person has the right to life. Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with the law.

The bill seeks to strengthen and improve arrangements for emergency management planning, which will promote the right to life and property rights. By improving the planning arrangements for the mitigation of, response to, and recovery from, emergencies, threats to life and property should be reduced.

The clarifications in the bill to facilitate VICSES volunteers accessing common-law damages for property damage promotes their right to property under the charter.

The Hon. James Merlino, MP
Minister for Emergency Services

Second reading

Mr MERLINO (Minister for Emergency Services)
(10:39) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under standing orders:

This bill has at its centrepiece a new framework for emergency management planning in Victoria. This reform is coupled with a range of changes to other elements of our emergency service arrangements to meet operational needs and address a number of other issues.

Emergency management planning reforms

Strong and effective planning is the foundation of a successful response to, and recovery from, an emergency. Currently, there are both operational and legislative measures to support the planning process, with the legislative measures spread across an array of different pieces of legislation: the Emergency Management Act 1986, the Emergency Management Act 2013 (EM act), the Country Fire Authority Act 1958, as well as a range of legislation in specific portfolios and industry sectors. Victoria's current arrangements for emergency management planning do not provide a comprehensive or holistic approach to planning. There is also a lack of clear, consistent and transparent governance mechanisms to underpin emergency management planning. The roles and responsibilities of agencies are unclear, outdated and fragmented in key respects, and there is no consistent obligation for agencies to discharge their roles under the current plans.

As a result of events such as the Black Saturday bushfires, the floods in 2010–11 and the Hazelwood mine fire, significant reforms have already been made to emergency management

arrangements in Victoria. Underpinning these reforms is a joint understanding that governments and agencies must work together to facilitate flexible and networked preparations for responding to, and recovering from, emergencies.

The reforms have recognised that individuals, communities, emergency services organisations, businesses and industry have shared responsibilities for emergency management. However, more specific reforms are required to better integrate emergency management planning and implement a planning framework that is collaborative, flexible and based on shared responsibility.

In 2014, the Victorian emergency management reform white paper advocated a planning approach for all agencies and all emergencies built on networked arrangements, greater interoperability and a stronger emphasis on risk mitigation. The white paper identified that Victoria's existing emergency management planning arrangements do not provide a comprehensive approach to emergency management planning. The white paper highlighted that improving planning processes is critical in minimising the likelihood and consequences of disasters and emergencies on the community.

A number of public inquiries have also been critical of Victoria's emergency management planning arrangements and recommended significant improvements. Most recently, recommendation 3 of the Inquiry into the Hazelwood Mine Fire highlighted a specific need to introduce more integrated fire management planning.

There is little doubt that scrutinising the events of the past has highlighted the need for reform of the current arrangements. The government is proud to deliver a new legislative framework that provides the necessary underpinning to best prepare for an emergency and to best protect our communities.

Importantly, this bill provides for a new objective in the EM act 2013 to clarify that the new planning arrangements and the act provide for an 'all communities—all emergencies' approach to emergency management. This objective reinforces that communities are at the centre of decision-making in all of our arrangements for managing emergencies.

The bill addresses the need for reform of the existing planning arrangements in the Emergency Management Act 1986 and the EM act 2013 by replacing them with a new, integrated and coordinated framework for emergency management planning. The key features of the new framework include:

- integrated planning for activities that occur before, during and after an emergency;

- arrangements that provide for all likely emergencies;

- a new governance structure for emergency management planning;

- common principles to guide and drive the planning process;

- plans that provide for the roles and responsibilities of all relevant agencies; and

- clear and transparent quality assurance and accountability mechanisms.

The bill establishes a clear and transparent governance structure that facilitates and supports planning arrangements at the state, regional and local levels.

Under the new governance arrangements, the emergency management commissioner (EMC) will be responsible for state-level planning and new regional and municipal emergency management planning committees will be established to plan at the regional and municipal levels, respectively. These new committees will promote shared responsibility for planning, by requiring relevant agencies to participate in the planning process. The new municipal level arrangements will also apply in a similar way to Victoria's alpine resorts, to ensure that the arrangements are comprehensive.

The regional and municipal emergency management planning committees will be comprised of representatives of specified agencies, including state government departments, local government and other agencies and stakeholders. Additional agencies and stakeholders will be invited to supplement the core membership. This will provide clarity regarding the core membership, as well as flexibility to include additional representatives tailored to the risks and needs of each region and municipal district.

The bill requires each emergency management plan at the state, regional and municipal levels to provide for an integrated, coordinated, and comprehensive approach to emergency management. Each plan will provide for arrangements that span all relevant emergencies. The plans must specify agencies' roles and responsibilities, and address all stages of emergency management, being mitigation, response, and recovery. This promotes a consistent approach to preparing emergency management plans across all three planning levels. While the bill provides for these core elements of an emergency management plan, it also facilitates a flexible approach to planning. Each plan, especially at the regional and municipal levels, will be tailored to the specific risks, communities, and geographical footprint to which it applies.

The bill provides for a combination of measures for oversight and assurance, including an approval mechanism for each emergency management plan, a statement of assurance process, and system-level assurance by the inspector-general for emergency management.

The new governance arrangements require the new state-level plan to be approved by the State Crisis and Resilience Council, the new regional plans to be approved by the EMC, and the new municipal plans to be approved by the relevant regional emergency management planning committee. These mechanisms provide oversight of the plans and facilitate operational integration between the different planning levels.

A statement of assurance will be prepared by the EMC or the regional or municipal emergency management planning committee, as the case may be, to confirm that its emergency management plan satisfies the new statutory requirements. For example, this would include requirements for the core contents of each plans, and for consultation on the plans. This statement of assurance serves as a key tool for the 'approver' of each plan to determine that the plan complies with the new requirements.

These approval mechanisms will be further complemented by an independent assurance role for the inspector-general for emergency management. This will provide assurance of the

quality of both the new planning process and the plans prepared under it.

The new planning framework in the bill will be implemented in stages to ensure a smooth transition to the new arrangements. The state-level arrangements will commence first. A new state emergency management plan will be developed to set the direction for Victoria's emergency management arrangements. Following the state-level arrangements, the new regional emergency management planning committees will be established to develop regional emergency management plans. The new municipal emergency management planning committees will then be established to prepare municipal emergency management plans. It is expected that the new framework will be fully operational by the end of 2020.

The bill does not provide detailed guidance on the planning process. Rather, the bill establishes an overarching framework to underpin emergency management planning. The framework includes general principles to guide the planning process, and key statutory obligations regarding the preparation of emergency management plans and their contents. To supplement these overarching arrangements, ministerial guidelines will be developed to provide for the more detailed, practical guidance on the planning process. These guidelines can be refined or altered over time to meet new or changing operational requirements, risks or issues. They can also be tailored to the needs of each planning level within the new framework. As such, the guidelines will provide a flexible and practical mechanism to implement the new planning framework on the ground.

An exposure draft of the Emergency Management Legislation Amendment (Planning) Bill (exposure draft) was released for public consultation in May 2016 to seek stakeholders' views on the reforms. Feedback was received from a wide range of stakeholders, including local government, emergency management agencies and industry. The proposed new arrangements received broad support. A range of different views on the detail of the planning bill were put forward, which were extremely valuable in informing the further development of the new framework. The reforms strike a balance between these different views to deliver a new framework that best meets the needs of the sector as a whole.

Some key changes were made to the new emergency management planning framework in response to stakeholders' feedback on the exposure draft. These include refinements to the municipal and regional emergency management planning committees to strengthen the representation of emergency recovery agencies, and changes to the regional emergency management planning committees to give councils a stronger voice on those committees. The framework now includes a power to issue guidelines in relation to dispute resolution, and a principle was added to expressly require emergency management plans to promote community resilience to emergencies. The existing role of the municipal recovery manager within municipal councils was added to the framework to give this critical role a clear statutory underpinning. A number of other technical refinements were made to ensure that the new arrangements apply effectively in practice.

Collectively, these new arrangements will support a stronger, more efficient and integrated approach to planning for emergencies for all Victorian communities.

Other changes

The planning bill has been incorporated into this bill, which also incorporates a number of other changes to improve emergency management arrangements.

The inspector-general for emergency management (IGEM) performs a critical role in providing assurance of Victoria's emergency management arrangements. The IGEM is currently a public servant appointed by the Secretary to the Department of Justice and Regulation. The bill instead provides for the IGEM to be appointed by the Governor in Council. This will increase the independence of the IGEM, giving further confidence to the community in the IGEM's important assurance functions.

The bill clarifies the interaction between the no-fault statutory compensation scheme in the Victoria State Emergency Service Act 2005 (VICSES act) and common-law damages claims. VICSES volunteers who are injured or suffer property damages in performing their emergency service roles can currently obtain compensation under the VICSES act. The changes in the bill overcome an existing limitation in that act that precludes those volunteers from accessing common-law damages. VICSES volunteers will be able to access both types of benefits, whichever is greater. This promotes fairness for Victoria's VICSES volunteers, by placing them on a similar footing to claimants under other no-fault compensation schemes.

The bill also includes amendments to facilitate the relocation of the VICSES Broadmeadows unit to an unused part of the Fawcner Memorial Park. The bill does this by providing for the revocation of the site's permanent reservation as a cemetery. This will pave the way for the VICSES Broadmeadows unit to relocate to this site, if and when associated arrangements for VICSES to secure the site are finalised.

These additional changes in the bill ensure that we continue to support the invaluable work performed by Victoria's emergency service volunteers.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Wednesday, 7 March.

HEALTH AND CHILD WELLBEING LEGISLATION AMENDMENT BILL 2017

Council's amendment

Message from Council relating to following amendment considered:

Insert the following New Clause to follow clause 22—

“A New section 149A inserted

After section 149 of the **Public Health and Wellbeing Act 2008** insert—

149A Review of provisions relating to immunisation of children attending or to attend early childhood services

- (1) The Minister must arrange for a review to be conducted into the operation of sections 143B, 143C, 143D and 143E.
- (2) The Minister must cause a copy of the review to be laid before each House of the Parliament before 30 November 2020.
- (3) The review must give particular consideration to any unintended or adverse effects of sections 143B, 143C, 143D and 143E and may include recommendations on any matter addressed in the review.”.

Ms HENNESSY (Minister for Health) (10:40) — I move:

That this house makes the amendment suggested by the Legislative Council.

In speaking to this matter, I am very delighted to see the progress of these amendments to the no jab, no play legislation. There are a number of very important public policy issues that are progressed by this legislation. Essentially what this bill does is tighten and simplify immunisation requirements for enrolment in an early childhood service or primary school in two ways: firstly, they will provide that the only document that early childhood services and primary schools will be able to accept on enrolment is an Australian immunisation history statement; and secondly, mandatory periodic checks will be introduced to verify that children are receiving their scheduled vaccines on time throughout their early years in education and care.

Essentially these amendments will address problems created by a relatively well-known case involving a doctor called Dr Piesse. Dr Piesse is a reasonably well-known and self-admitted anti-vaccination doctor who has boasted publicly that he has assisted families to attempt to avoid both commonwealth regulation in the space as well as Victorian regulation in the space.

The new legislation makes the immunisation history statement from the Australian Immunisation Register the only evidence accepted for the purposes of enrolling in an early childhood education and care service in Victoria. Essentially there are a range of other regulatory issues that have been progressed in this bill. Some of those go to specific powers of the Health Complaints Commissioner as well. There was a further amendment that was passed in the Legislative Council to review the no jab, no play legislation and table the report in Parliament by 2020, which the government supports, and we indicate our support in this place as well.