

Authorised Version

Justice Legislation Amendment (Access to Justice) Act 2018 No. 15 of 2018

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Authorised Version



Victoria

**Justice Legislation Amendment (Access
to Justice) Act 2018[†]**

No. 15 of 2018

[Assented to 29 May 2018]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Bill are—

- (a) to amend the **Australian Consumer Law and Fair Trading Act 2012** to expand the class of consumer and trader disputes that are small claims; and

- (b) to amend the **Births, Deaths and Marriages Registration Act 1996** to remove limitations relating to a record or acknowledgment of a married person's sex; and
- (c) to amend the **Civil Procedure Act 2010** in relation to protective costs orders; and
- (d) to amend the **County Court Act 1958** in relation to fees; and
- (e) to amend the **Legal Aid Act 1978** in relation to Victoria Legal Aid's composition, objectives, functions, planning, reporting and administration of the Legal Aid Fund; and
- (f) to amend the **Legal Profession Uniform Law Application Act 2014** in relation to the Public Purpose Fund, the funding of law-related services and activities, overseas qualifications and managed investment schemes; and
- (g) to amend the **Magistrates' Court Act 1989** in relation to fees; and
- (h) to amend the **Victoria Law Foundation Act 2009** in relation to the Victoria Law Foundation's composition, object, functions, membership, staffing and the charging of fees; and
- (i) to amend the **Victorian Civil and Administrative Tribunal Act 1998** in relation to acting Deputy Presidents, acting senior members, support persons, assistance provided by the principal registrar, mediators, the enforcement of orders, service and small civil claims.

2 Commencement

- (1) This Act (except Parts 2, 3, 4, 5, 6, 7, 9 and 10) comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Subject to subsections (3), (4) and (5), Parts 2, 3, 4, 5, 6, 7, 9 and 10 come into operation on a day or days to be proclaimed.
- (3) If a provision of Part 2, 4, 5, 6, 7, 9 or 10 (other than Division 5 of Part 10) does not come into operation before 1 July 2019, it comes into operation on that day.
- (4) If a provision of Part 3 does not come into operation before 12 October 2018, it comes into operation on that day.
- (5) If a provision of Division 5 of Part 10 does not come into operation before 1 July 2020, it comes into operation on that day.

Part 2—Australian Consumer Law and Fair Trading Act 2012

3 What is a small claim?

In section 183(a) and (b) of the **Australian Consumer Law and Fair Trading Act 2012**, for "\$10 000" substitute "\$15 000".

Part 3—Births, Deaths and Marriages Registration Act 1996

4 Application to alter Register

In section 30A(1) of the **Births, Deaths and Marriages Registration Act 1996**, for "An unmarried person" substitute "A person".

5 Alteration of Register

Section 30C(3) of the **Births, Deaths and Marriages Registration Act 1996** is repealed.

6 Application for document acknowledging identity

In section 30E(1) of the **Births, Deaths and Marriages Registration Act 1996**, for "An unmarried person" substitute "A person".

7 Issue of document acknowledging identity

Section 30F(6) of the **Births, Deaths and Marriages Registration Act 1996** is repealed.

Part 4—Civil Procedure Act 2010

8 Other costs orders

After section 65C(2) of the **Civil Procedure Act 2010 insert—**

- "(2A) In making an order under subsection (1) to fix or cap recoverable costs in advance, the court may consider the following matters—
- (a) the timing of the application;
 - (b) the complexity of the factual or legal issues raised in the proceeding;
 - (c) whether the party seeking the order claims damages or other form of financial compensation;
 - (d) whether the claim of the party seeking the order has a proper basis and is not frivolous or vexatious;
 - (e) the undesirability of the party seeking the order abandoning the proceeding if the order is not made;
 - (f) whether there is a public interest element to the proceeding;
 - (g) the costs likely to be incurred by the parties;
 - (h) whether the other party has been uncooperative or delayed the proceeding;
 - (i) the ability of the party seeking the order to pay costs;
 - (j) whether a significant number of members of the public may be affected by the outcome of the proceeding;

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Part 4—Civil Procedure Act 2010

- (k) whether the claim of the party seeking the order raises significant issues as to the interpretation and application of statutory provisions."

Part 5—County Court Act 1958

9 Section 28 repealed

Section 28 of the **County Court Act 1958** is **repealed**.

10 Regulations

(1) After section 79A(3)(d) of the **County Court Act 1958** insert—

"(da) different fees for different classes of proceedings or different classes of party;"

(2) Section 79A(3)(g) of the **County Court Act 1958** is **repealed**.

(3) After section 79A(4) of the **County Court Act 1958** insert—

"(5) The regulations may—

- (a) be of general or limited application; and
- (b) differ according to differences in time, place or circumstances; and
- (c) provide in a specified case or class of case for the exemption of any proceeding, person or thing or a class of proceeding, person or thing from any of the provisions of the regulations, whether—
 - (i) unconditionally or on specified conditions; and
 - (ii) either wholly or to such an extent as is specified; and
- (d) provide for the payment in advance of any fee fixed under subsection (2)(a); and

- (e) provide for proportionate consequences of failure to pay any fee fixed under subsection (2)(a); and
 - (f) provide for the reduction, waiver, postponement, remission or refund, in whole or in part, of any fee fixed under subsection (2)(a); and
 - (g) provide, in specified circumstances, for the reinstatement or payment, in whole or in part, of any fee fixed under subsection (2)(a) which was reduced, waived, postponed, remitted or refunded by or in accordance with the regulations; and
 - (h) confer a discretionary authority or impose a duty on any judge, associate judge, judicial registrar or a specified court official or a specified class of judge, class of associate judge, class of judicial registrar or court official; and
 - (i) leave any matter or thing dealt with by or in accordance with the regulations to be decided by a specified court official or class of court official.
- (6) Subject to the regulations or any power to reduce, waive, postpone, remit or refund any fee fixed under subsection (2)(a), the registrar or a deputy registrar at or for the place where a proceeding is to be heard may, having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay a fee fixed under subsection (2)(a), waive payment of that fee if, in the registrar or deputy registrar's opinion, the payment of that fee by that person would cause the person financial

hardship and, in that case, that fee is not payable.

- (7) If the regulations provide for a remission or refund of a fee fixed under subsection (2)(a), the Consolidated Fund is appropriated to the necessary extent to enable any remission or refund to be paid."

Part 6—Legal Aid Act 1978

Division 1—Objectives and functions

11 Definitions

In section 2(1) of the **Legal Aid Act 1978** insert the following definitions—

"community legal service has the same meaning as in the Legal Profession Uniform Law (Victoria);

legal assistance information means information that is—

- (a) for use by the community; and
- (b) designed to provide guidance or education in relation to the law, including—
 - (i) guidance (other than legal advice) for identifying, preventing or dealing with legal problems; and
 - (ii) information on support services that are related to the law;"

12 Objectives

After section 4(b) of the **Legal Aid Act 1978** insert—

- "(ba) to ensure the coordination of the provision of legal aid so that it responds to the legal and related needs of the community;
- (bb) to ensure the coordination of the provision of legal assistance information so that the information responds to the legal and related needs of the community, including by being—
 - (i) accessible; and
 - (ii) current; and

- (iii) high quality; and
- (iv) of sufficient breadth;".

13 Functions and powers

- (1) After section 6(1)(a) of the **Legal Aid Act 1978** insert—

"(ab) to coordinate, and undertake strategic planning for, the provision of legal aid by—

- (i) VLA; and
- (ii) subject to subsection (1A), community legal services; and
- (iii) private legal practitioners by arrangement with VLA;

(ac) subject to subsection (1B), to coordinate the provision of legal assistance information, including by facilitating the expansion of the provision of that information as appropriate;".

- (2) After section 6(1) of the **Legal Aid Act 1978** insert—

"(1A) VLA does not have the function of coordinating, and undertaking strategic planning for, the provision of legal aid in Victoria by—

- (a) Aboriginal and Torres Strait Islander Corporation Family Violence Prevention and Legal Service (Victoria) ABN 47 125 370 108; or
- (b) Victorian Aboriginal Legal Service Co-operative Ltd ABN 45 926 675 900; or

- (c) any other organisation (whether incorporated or not) that holds itself out as an Aboriginal and Torres Strait Islander Legal Service.
- (1B) VLA does not have the function of coordinating the provision of legal assistance information in Victoria by an entity referred to in subsection (1A)."

14 Duties of VLA

- (1) In section 7(1)(a) of the **Legal Aid Act 1978**, for "distrust;" **substitute** "distrust, including by—
 - (i) arranging, as appropriate, for legal aid to be provided by VLA, community legal services and private legal practitioners by arrangement with VLA; and
 - (ii) arranging for the provision of legal aid that is appropriate and proportionate to the capabilities of the person to whom it is provided and also to the complexity of the matter for which it is provided;"
- (2) After section 7(1) of the **Legal Aid Act 1978** **insert**—
 - "(1A) In performing its function under section 6(1)(ab), VLA must consult with—
 - (a) the Law Institute; and
 - (b) the Victorian Bar; and
 - (c) the Victoria Law Foundation; and
 - (d) the Federation of Community Legal Centres; and
 - (e) community legal services; and
 - (f) private legal practitioners who provide legal aid by arrangement with VLA.

(1B) In performing its function under section 6(1)(ac), VLA must determine, in consultation with persons and bodies who produce and provide legal assistance information in Victoria, how that information is best produced and provided."

15 Role of board

(1) After section 12(2)(a) of the **Legal Aid Act 1978** insert—

"(ab) to make decisions regarding how amounts to be paid out of the Fund are to be allocated across—

- (i) VLA; and
- (ii) community legal services; and
- (iii) private legal practitioners providing legal aid by arrangement with VLA; and"

(2) After section 12(4) of the **Legal Aid Act 1978** insert—

"(5) The board must have regard to the advice and recommendations of the collaborative planning committee in carrying out its role under subsection (2)(ab)."

Division 2—Collaborative planning committee

16 Terms and conditions of appointment to community consultative committee

Insert the following heading to section 12L of the **Legal Aid Act 1978**—

"Terms and conditions of appointment to community consultative committee".

17 New sections 12LA, 12LB and 12LC inserted

After section 12L of the **Legal Aid Act 1978**
insert—

"12LA Collaborative planning committee

- (1) There shall be established a collaborative planning committee.
- (2) The function of the committee is to provide evidence-based advice and recommendations to the board in relation to—
 - (a) the legal and related needs of the community; and
 - (b) the provision of legal aid; and
 - (c) VLA's functions under section 6(1)(ab) and (ac).
- (3) The committee—
 - (a) must consist of—
 - (i) an employee or officer of VLA (other than a director of the board) appointed by the board; and
 - (ii) a person nominated by the Federation of Community Legal Centres; and
 - (iii) a person nominated by the Law Institute; and
 - (iv) a person nominated by the Victorian Bar; and
 - (v) a person nominated by the Department of Justice and Regulation; and
 - (vi) a person nominated by the Victoria Law Foundation; and

- (b) may additionally consist of no more than 3 persons nominated by the committee.
- (4) In nominating a person as described in subsection (3)(b), the committee must have regard to the need for the committee to have experience and expertise that is relevant to its functions.
- (5) On receiving a nomination referred to in subsection (3)(a)(ii), (iii), (iv), (v), (vi) or (3)(b), the board must appoint the nominated person to the committee.
- (6) The committee may regulate its own procedure.
- (7) The committee is to have a chairperson, who is to be appointed by the committee in accordance with the committee's procedures.

12LB Terms and conditions of appointment to collaborative planning committee

- (1) A member of the collaborative planning committee holds office for the period, not exceeding 3 years, specified in the instrument of appointment and is eligible for re-appointment.
- (2) The board may, in the instrument of appointment of a member of the committee, specify terms and conditions of the appointment.
- (3) A member, other than a member who is employed under Part 3 of the **Public Administration Act 2004**, is entitled to be paid the remuneration and allowances fixed in the instrument of appointment by the board.

- (4) A member of the committee may resign from that office in writing given to the board.

12LC Reports of collaborative planning committee

- (1) The collaborative planning committee may give the board recommendations in the form of a report that includes a request for a response.
- (2) The board must provide a response within 3 months of receiving a report under subsection (1).
- (3) The board's response must set out the action (if any) that has been taken, or will be taken, in relation to the recommendations in the report.
- (4) Nothing in this section prevents the collaborative planning committee from giving recommendations to the board other than in accordance with this section."

Division 3—Plans, reports and funding

18 Definitions

In section 2(1) of the **Legal Aid Act 1978** insert the following definitions—

annual report means a report under section 12N(1);

corporate plan means a plan under section 12MC(1);

strategic plan means a plan under section 12MB(1);"

19 New sections 12MA, 12MB and 12MC inserted

After section 12M of the **Legal Aid Act 1978**
insert—

**"12MA Directions regarding funding of
community legal services**

- (1) The Attorney-General may give the board a written direction requiring that the total amount paid out of the Fund to community legal services in a financial year must not be below a specified amount.
- (2) The Attorney-General may specify an amount referred to in subsection (1) by specifying a method for calculating that amount.
- (3) The board must comply with any direction given under subsection (1).
- (4) The Attorney-General may vary or revoke a direction under subsection (1).

12MB Strategic plan

- (1) VLA must, in respect of each applicable period—
 - (a) prepare a plan regarding VLA's strategy for its operation during that period; and
 - (b) submit the plan to the Attorney-General on or before the day specified for that period by the Attorney-General by notice in writing given to VLA.
- (2) The *applicable periods* are the consecutive periods of 4 years, the first of which begins on 1 July 2018.
- (3) The Attorney-General may specify that the strategic plan for the first applicable period is to be submitted on a day that is later than 1 July 2018.

- (4) The strategic plan for an applicable period must—
- (a) set out—
 - (i) the intended achievements and financial projections of VLA for that period; and
 - (ii) the matters which VLA intends to prioritise or have regard to when making decisions during that period; and
 - (b) be in a form agreed to by VLA and the Attorney-General.
- (5) No later than one month after a strategic plan is received by the Attorney-General, the Attorney-General may—
- (a) approve the plan; or
 - (b) request VLA to amend the strategic plan.
- (6) If, by the end of the period referred to in subsection (5), the Attorney-General has not taken an action referred to in subsection (5)(a) or (b), the Attorney-General is taken to have approved the strategic plan.
- (7) If the Attorney-General requests amendments under subsection (5)(b), VLA must—
- (a) consult the Attorney-General about the requested amendments; and
 - (b) amend the plan as agreed with the Attorney-General; and
 - (c) submit the amended plan no later than 2 months after the amendments were requested.

- (8) VLA may, with the Attorney-General's agreement, amend a strategic plan approved by the Attorney-General.
- (9) VLA must publish a strategic plan on its internet site—
 - (a) as soon as practicable after it is approved by the Attorney-General; and
 - (b) if the plan is later amended under subsection (8), as soon as practicable after that amendment.

12MC Annual corporate plan

- (1) Before 31 August in each year, VLA must—
 - (a) prepare a plan in accordance with this section for the financial year that begins in that year; and
 - (b) submit the plan to the Attorney-General.
- (2) The corporate plan for a financial year must—
 - (a) set out—
 - (i) VLA's budget for that financial year, including the total amount that is to be paid out of the Fund to community legal services in that year; and
 - (ii) the priorities, intended achievements and intended activities for that financial year; and
 - (iii) the financial projections of VLA for that financial year; and

- (b) be consistent with—
 - (i) each strategic plan that applies to any part of that financial year; and
 - (ii) any direction given under section 12MA(1) for that financial year; and
 - (c) be in a form agreed to by VLA and the Attorney-General.
- (3) No later than one month after a corporate plan is received by the Attorney-General, the Attorney-General may give VLA comments on the corporate plan.
- (4) If, by the end of the period referred to in subsection (3), the Attorney-General has not given VLA comments in accordance with that subsection, VLA must publish the corporate plan on its internet site as soon as practicable.
- (5) If the Attorney-General gives comments under subsection (3), the following provisions apply—
- (a) VLA may amend the corporate plan having regard to the comments; and
 - (b) no later than one month after comments are given, VLA must—
 - (i) publish the plan, incorporating any amendments made under paragraph (a), on its internet site; and
 - (ii) if the plan was amended, give a copy of the amended plan to the Attorney-General."

20 Annual report

- (1) **Insert** the following heading to section 12N of the **Legal Aid Act 1978**—

"Annual report".

- (2) In section 12N(1) of the **Legal Aid Act 1978**, for "proceedings" **substitute** "operations".

- (3) After section 12N(1) of the **Legal Aid Act 1978** **insert**—

"(1A) The annual report for a financial year must set out the operations of VLA by reference to, or comparison with, the budget, intended achievements, intended activities and financial projections set out in the corporate plan for that financial year."

- (4) In section 12N(2) of the **Legal Aid Act 1978**, for "the report" **substitute** "the annual report".

21 New section 12O inserted

After section 12N of the **Legal Aid Act 1978** **insert**—

"12O Quarterly reports

- (1) No later than 2 months after the end of a quarter, VLA must prepare and publish a quarterly report on VLA's internet site.
- (2) The quarterly report for a quarter must—
- (a) set out—
 - (i) VLA's financial performance for that quarter; and
 - (ii) a projection of VLA's financial performance for the next quarter; and
 - (iii) VLA's service delivery performance for that quarter; and

- (iv) a projection of VLA's service delivery performance for the next quarter; and
 - (b) measure those performances and projected performances against indicators specified by the Attorney-General by notice in writing given to VLA.
- (3) For the purposes of this section, each of the following periods is a *quarter*—
- (a) the period beginning on 1 January and ending on 31 March;
 - (b) the period beginning on 1 April and ending on 30 June;
 - (c) the period beginning on 1 July and ending on 30 September;
 - (d) the period beginning on 1 October and ending on 31 December."

Division 4—Board and chief executive officer of Victoria Legal Aid

22 Definitions

- (1) In section 2(1) of the **Legal Aid Act 1978**, the definition of *managing director* is repealed.
- (2) In section 2(1) of the **Legal Aid Act 1978** insert the following definition—

"*chief executive officer* means the chief executive officer of VLA appointed under section 12JB;"

23 Delegation

After section 10(a) of the **Legal Aid Act 1978** insert—

- "(ab) the chief executive officer;"

24 Board of directors

- (1) Section 11(b) of the **Legal Aid Act 1978** is **repealed**.
- (2) In section 11(c) of the **Legal Aid Act 1978**, for "5" **substitute** "6".
- (3) In section 11(c)(ii) of the **Legal Aid Act 1978**, for "either business or government operation." **substitute** "public management; and".
- (4) After section 11(c)(ii) of the **Legal Aid Act 1978** **insert**—
 - "(iii) at least one must have experience with criminal proceedings (whether as a legal practitioner or a judicial officer); and
 - (iv) at least one must have experience in other areas of legal practice engaged in by VLA or its officers."

25 Section 12A repealed

Section 12A of the **Legal Aid Act 1978** is **repealed**.

26 Appointment of directors

- (1) In section 12B(2) of the **Legal Aid Act 1978**—
 - (a) **omit** "and the managing director";
 - (b) for "director and the office of managing director." **substitute** "director."
- (2) After section 12B(2) of the **Legal Aid Act 1978** **insert**—
 - "(3) The chief executive officer is not eligible to be appointed to be the chairperson or any other director."

27 Terms and conditions of appointment of directors

(1) **Insert** the following heading to section 12C of the **Legal Aid Act 1978**—

"Terms and conditions of appointment of directors".

(2) In section 12C(1) of the **Legal Aid Act 1978**, for "exceeding—" **substitute** "exceeding 3 years."

(3) Section 12C(1)(a) and (b) of the **Legal Aid Act 1978** are **repealed**.

(4) In section 12C(3) of the **Legal Aid Act 1978** **omit** "(other than the managing director)".

(5) In section 12C(4) of the **Legal Aid Act 1978**, for "office—" **substitute** "office on a part-time basis."

(6) Section 12C(4)(a) and (b) of the **Legal Aid Act 1978** are **repealed**.

28 Vacancies, resignations, removal of directors from office

(1) **Insert** the following heading to section 12D of the **Legal Aid Act 1978**—

"Vacancies, resignations, removal of directors from office".

(2) In section 12D(1), (2), (3) and (4) of the **Legal Aid Act 1978** **omit** "(other than the managing director)".

29 Section 12F repealed

Section 12F of the **Legal Aid Act 1978** is **repealed**.

30 Validity of decisions of board

Insert the following heading to section 12G of the **Legal Aid Act 1978**—

"Validity of decisions of board".

31 New sections 12JA, 12JB, 12JC, 12JD, 12JE and 12JF inserted

After section 12J of the **Legal Aid Act 1978**
insert—

"12JA Role of chief executive officer

The chief executive officer—

- (a) has control of the day to day administration of the affairs of VLA in accordance with—
 - (i) the strategic plans and annual corporate plans; and
 - (ii) the policies, priorities and strategies determined by the board; and
 - (iii) any directions given to the chief executive officer by the board; and
- (b) may exercise any power delegated to the chief executive officer by the board; and
- (c) subject to directions of the board, may, by instrument, delegate to an officer of VLA—
 - (i) any power of the chief executive officer under this Act, other than this power of delegation; or
 - (ii) any power delegated to the chief executive officer by VLA.

12JB Appointment of chief executive officer

- (1) The board, with the approval of the Attorney-General, may appoint a person as chief executive officer of VLA.

- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the chief executive officer of VLA in respect of the office of chief executive officer.
- (3) A director of VLA is not eligible to be appointed as chief executive officer.

12JC Terms and conditions of appointment of chief executive officer

- (1) The chief executive officer is appointed for the period, not exceeding 5 years, specified in the instrument of appointment.
- (2) The chief executive officer is eligible for re-appointment.
- (3) The chief executive officer is appointed on the terms and conditions (including remuneration and allowances) specified in the instrument of appointment.
- (4) The chief executive officer may hold office on a full-time or part-time basis.

12JD Vacancy, resignation, removal from chief executive officer's office

- (1) The office of the chief executive officer becomes vacant if the chief executive officer—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the officer's creditors or makes an assignment of the officer's remuneration for their benefit; or
 - (b) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence.

- (2) The chief executive officer may resign by notice in writing delivered to the board.
- (3) The board, with the Attorney-General's approval, may remove the chief executive officer from office.

12JE Acting chief executive officer

- (1) Subject to this section, the board may appoint a person to act as chief executive officer—
 - (a) during a vacancy in the office; or
 - (b) during any period or all periods when the chief executive officer is absent from duty or from the State or is for any other reason unable to perform the duties of that office.
- (2) An appointment under subsection (1) must not be for a period of more than 6 months.
- (3) Subject to subsection (4), an acting chief executive officer is eligible for re-appointment.
- (4) The Attorney-General's approval is required for the re-appointment of an acting chief executive officer if the re-appointment would result in the person having been appointed to act as chief executive officer for more than 6 months in any one 12 month period.
- (5) Subject to subsections (2) and (6), an appointment under subsection (1) is on the terms and conditions determined by the board.
- (6) An appointment under subsection (1) must be on terms not more favourable than those applying to the chief executive officer.

- (7) While so acting, the person appointed under subsection (1) has all the powers and may perform all the functions and duties conferred by this Act or any other Act on the chief executive officer.
- (8) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to an acting chief executive officer of VLA in respect of the office of acting chief executive officer.

12JF Validity of decisions of chief executive officer

- (1) An act or decision of the chief executive officer is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of the chief executive officer.
- (2) Anything done by or in relation to a person purporting to act as chief executive officer is not invalid merely because—
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased."

32 Attorney-General may give directions to the board

In section 12M(4) of the **Legal Aid Act 1978**, for "managing director" substitute "chairperson".

33 Panel of independent reviewers

In section 18(2)(a) of the **Legal Aid Act 1978**, for "director of VLA" **substitute** "director of VLA, the chief executive officer".

34 Legal Aid Fund

In section 41(3)(b) of the **Legal Aid Act 1978**, for "chairperson and acting managing director," **substitute** "chairperson, the chief executive officer and acting chief executive officer,".

35 Certificate of costs

In section 48B of the **Legal Aid Act 1978**, for "managing director" **substitute** "chief executive officer".

36 Section 54 inserted

After section 53 of the **Legal Aid Act 1978**
insert—

**"54 Transitional provision—Justice
Legislation Amendment (Access to
Justice) Act 2018**

- (1) Despite the amendments made to section 11 by section 24 of the **Justice Legislation Amendment (Access to Justice) Act 2018—**
- (a) the board is taken to be the same body as it was immediately before the commencement of those amendments; and
 - (b) no decision, matter or thing is affected because of those amendments; and
 - (c) a director of the board who held office immediately before that commencement continues in office, subject to this Act, on the same terms and conditions on which the director

held office immediately before that commencement.

- (2) On and after the day on which section 25 of the **Justice Legislation Amendment (Access to Justice) Act 2018** comes into operation, the person who, immediately before that day, held the office of managing director under section 12A as in force immediately before that day—
- (a) ceases to be a member of the board; and
 - (b) is taken to be appointed as chief executive officer for the remainder of the term that is specified in the instrument of appointment as managing director."

Division 5—Miscellaneous

37 Definitions

In section 2(1) of the **Legal Aid Act 1978** insert the following definitions—

"Federation of Community Legal Centres means the Federation of Community Legal Centres (Vic.) Inc. ABN 30 036 539 902;

Law Institute has the same meaning as in the **Legal Profession Uniform Law Application Act 2014**;

Victoria Law Foundation means the body corporate continued by section 4 of the **Victoria Law Foundation Act 2009**;

Victorian Bar has the same meaning as in the **Legal Profession Uniform Law Application Act 2014**;"

38 References to Federation of Community Legal Centres

- (1) In section 12K(3)(a) of the **Legal Aid Act 1978**, for "Federation of Community Legal Centres (Vic.) Inc." **substitute** "Federation of Community Legal Centres".
- (2) In section 12K(4) of the **Legal Aid Act 1978**, for "Federation of Community Legal Centres (Vic.) Inc." (where twice occurring) **substitute** "Federation of Community Legal Centres".

39 References to Law Institute

- (1) In section 40A of the **Legal Aid Act 1978**—
 - (a) in the definition of *funding agreement*, for "Law Institute of Victoria" **substitute** "Law Institute";
 - (b) in the definition of *trust deed*, for "Law Institute of Victoria," **substitute** "Law Institute,".
- (2) In section 40H of the **Legal Aid Act 1978**, for "Law Institute of Victoria" **substitute** "Law Institute".

40 References to Victorian Bar

- (1) In section 40A of the **Legal Aid Act 1978**—
 - (a) in the definition of *funding agreement*, for "Victorian Bar Council" **substitute** "Victorian Bar";
 - (b) in the definition of *trust deed*, for "Victorian Bar Council" **substitute** "Victorian Bar".
- (2) In section 40H of the **Legal Aid Act 1978**, for "Victorian Bar Council" **substitute** "Victorian Bar".

41 Officers etc. of VLA not to reveal any information without consent of VLA

(1) Before section 43(1) of the **Legal Aid Act 1978** insert—

"(1AA) Subsections (1) and (2) apply to a person who is or was—

- (a) the chairperson or another director of the board; or
- (b) the chief executive officer; or
- (c) a member of the community consultative committee; or
- (d) a member of the collaborative planning committee; or
- (e) an independent reviewer; or
- (f) an employee or officer of VLA; or
- (g) a delegate of VLA; or
- (h) a person employed by a delegate of VLA."

(2) In section 43(1) of the **Legal Aid Act 1978**, for "A director of the board or a member of the community consultative committee or an independent reviewer or an officer of VLA" **substitute** "A person to whom this subsection applies".

(3) In section 43(2) of the **Legal Aid Act 1978**, for "any director of the board or a member of the community consultative committee or an independent reviewer or any officer of VLA" **substitute** "a person to whom this subsection applies".

(4) Section 43(3) of the **Legal Aid Act 1978** is **repealed**.

Part 7—Legal Profession Uniform Law Application Act 2014

Division 1—Payments into Legal Aid Fund

42 Legal aid funding

In section 143(2) of the **Legal Profession Uniform Law Application Act 2014**, for "35%" substitute "40%".

Division 2—Funding of law-related services and activities

43 Funding of law-related services and activities

After section 144(1)(d) of the **Legal Profession Uniform Law Application Act 2014** insert—

"(da) innovative improvements to access to justice;"

Division 3—Overseas qualifications

44 New section 72A inserted

After section 72 of the **Legal Profession Uniform Law Application Act 2014** insert—

"72A Fees for assessments regarding foreign qualification or training

- (1) If the Admission Rules provide for the Victorian Legal Admissions Board to undertake an assessment referred to in subsection (2), the Board may charge a person who requests such an assessment a fee to recover the Board's reasonable costs in undertaking the assessment.
- (2) Subsection (1) applies in relation to an assessment as to what a person with foreign qualifications or training must do in order to satisfy—

- (a) the specified academic qualifications prerequisite referred to in section 17 of the Legal Profession Uniform Law (Victoria); and
 - (b) the specified practical legal training prerequisite referred to in that section.
- (3) For the purposes of subsection (2), a person has *foreign qualifications or training* if the person has—
- (a) attained an academic qualification in law in a foreign country; or
 - (b) undertaken work required to attain an academic qualification in law in a foreign country; or
 - (c) undertaken practical legal training in a foreign country."

45 General account

In section 136(3)(a)(ix) of the **Legal Profession Uniform Law Application Act 2014**, for "72);" substitute "72 or 72A);".

Division 4—Managed investment schemes

46 Prohibited services and business

In Schedule 1 to the **Legal Profession Uniform Law Application Act 2014**, after section 258(1) of the Uniform Law **insert—**

- "(1A) Despite subsection (1), a law practice (or a related entity) may promote or operate a managed investment scheme if—
- (a) the scheme is connected with or related to the business structure or ownership of the law practice; or

- (b) the scheme is connected with or related to the operation of the law practice and no person who is not an associate of the law practice has an interest in—
 - (i) the scheme; or
 - (ii) the responsible entity for the scheme; or
- (c) the scheme is of a kind specified in the Uniform Rules for the purposes of this paragraph."

Part 8—Magistrates' Court Act 1989

47 Fees

In section 22(2) of the **Magistrates' Court Act 1989**—

- (a) for "The appropriate registrar" **substitute** "Subject to the regulations or any power to waive, postpone, remit or refund a prescribed fee in a civil proceeding, the appropriate registrar";
- (b) for "pay a prescribed fee in a civil proceeding," **substitute** "pay the fee,".

48 Regulations

(1) After section 140(2)(d) of the **Magistrates' Court Act 1989** **insert**—

"(da) different fees for different classes of proceedings or different classes of party;".

(2) In section 140(2A) of the **Magistrates' Court Act 1989**—

(a) before paragraph (a) **insert**—

"(aa) provide for the payment in advance of any fee, cost or charge fixed by regulation under subsection (1)(a) or (b); and

(aab) provide for proportionate consequences of failure to pay any fee, cost or charge fixed by regulation under subsection (1)(a) or (b); and";

(b) in paragraph (a), for "waiver" **substitute** "waiver, postponement, remission";

(c) in paragraph (b)—

(i) for "waived" **substitute** "waived, postponed, remitted";

- (ii) for "by the regulations." **substitute**
"by or in accordance with the
regulations."
- (3) In section 140(2B) of the **Magistrates' Court Act 1989**, for "waiver" (wherever occurring) **substitute** "waiver, postponement, remission".
- (4) For section 140(3)(b) of the **Magistrates' Court Act 1989 substitute**—
 - "(b) so as to provide in a specified case or class of case for the exemption of any proceeding, person or thing or a class of proceeding, person or thing from any of the provisions of the regulations, whether—
 - (i) unconditionally or on specified conditions; and
 - (ii) either wholly or to such an extent as is specified; and".
- (5) After section 140(3) of the **Magistrates' Court Act 1989 insert**—
 - "(4) If the regulations provide for a remission or refund of a fee, cost or charge fixed by regulation under subsection (1)(a) or (b), the Consolidated Fund is appropriated to the necessary extent to enable any remission or refund to be paid."

Part 9—Victoria Law Foundation Act 2009

Division 1—Object and functions

49 Definitions

In section 3 of the **Victoria Law Foundation Act 2009** insert the following definitions—

"Board of Victoria Legal Aid means the board of directors of Victoria Legal Aid established under the **Legal Aid Act 1978**;

Courts Council means the Courts Council established under the **Court Services Victoria Act 2014**;"

50 New section 4A inserted

After section 4 of the **Victoria Law Foundation Act 2009** insert—

"4A Object of the Foundation

The object of the Foundation is to contribute to the development of a justice system that meets the legal and related needs of the Victorian community by improving knowledge and information about the Victorian justice system."

51 Section 5 substituted

For section 5 of the **Victoria Law Foundation Act 2009** substitute—

"5 Functions of the Foundation

The functions of the Foundation are—

- (a) to conduct, commission and disseminate research on the justice system, especially in matters relating to access to justice, legal services and civil justice, including—

- (i) collecting and analysing justice system data and information; and
 - (ii) developing and applying measures to assess the effectiveness and efficiency of the justice system; and
- (b) to promote and undertake education within Victoria to improve community understanding of the law and the justice system; and
 - (c) to educate the legal sector in matters relating to access to justice, including plain language education; and
 - (d) to make grants to organisations to fund projects and programs consistent with the functions or object of the Foundation; and
 - (e) to publish or subsidise the publication of material relating to, resulting from, or connected with carrying out the functions or object of the Foundation."

52 General powers of the Foundation

- (1) For section 6(2)(g) of the **Victoria Law Foundation Act 2009** substitute—
 - "(g) charging reasonable fees in respect of activities undertaken in the exercise of its statutory functions;"
- (2) In section 6(3)(c) of the **Victoria Law Foundation Act 2009**, for "12." substitute "12;"
- (3) After section 6(3)(c) of the **Victoria Law Foundation Act 2009** insert—
 - "(d) a person engaged on secondment under section 12."

Division 2—Membership

53 Constitution and membership of the Foundation

- (1) In section 7(1) of the **Victoria Law Foundation Act 2009**, for "6" substitute "8".
- (2) In section 7(1)(a)(i) of the **Victoria Law Foundation Act 2009** omit "of the Supreme Court of Victoria".
- (3) In section 7(1)(b) of the **Victoria Law Foundation Act 2009**, for "five" substitute "seven".
- (4) After section 7(2)(c) of the **Victoria Law Foundation Act 2009** insert—
 - "(ca) one is to be appointed on the nomination of the Board of Victoria Legal Aid; and
 - (cb) one is to be appointed on the nomination of the Courts Council; and".
- (5) In section 7(2)(d) of the **Victoria Law Foundation Act 2009**—
 - (a) for "two are" substitute "one is";
 - (b) omit "collectively".
- (6) In section 7(2)(d)(iv) of the **Victoria Law Foundation Act 2009**, for "administration;" substitute "administration; and".
- (7) Section 7(2)(d)(v) of the **Victoria Law Foundation Act 2009** is repealed.
- (8) After section 7(2)(d) of the **Victoria Law Foundation Act 2009** insert—
 - "(e) one is to be appointed by the Minister having regard, as far as is practicable, to the need for the Foundation to have experience and skills in research and analysis, or in the oversight of research and analysis, in areas including the following—

- (i) the justice system;
- (ii) social sciences;
- (iii) economics;
- (iv) statistics;
- (v) public policy."

(9) In section 7(3) of the **Victoria Law Foundation Act 2009**, for "3" substitute "4".

54 Terms and conditions of office of members—members other than the Chief Justice and the Chief Justice's nominee

In section 8(5) of the **Victoria Law Foundation Act 2009**, for "(b) or (c)" substitute "(b), (c), (ca) or (cb)".

55 Terms and conditions of office of members—Chief Justice's nominee

In section 8A(1) of the **Victoria Law Foundation Act 2009** omit "of the Supreme Court of Victoria".

56 Meetings

In section 9(4) of the **Victoria Law Foundation Act 2009**, for "3" substitute "4".

Division 3—Staffing

57 Executive Director and employees

For section 12(2) of the **Victoria Law Foundation Act 2009** substitute—

- "(2) The Foundation may engage a person—
- (a) as a consultant on any terms and conditions that it thinks fit; or
 - (b) who is employed under Part 3 of the **Public Administration Act 2004**, under a secondment for the person's

services by arrangement with a
Department Head."

Division 4—Transitional provisions

58 New section 16 inserted

After section 15 of the **Victoria Law Foundation Act 2009** insert—

**"16 Transitional provisions—Justice
Legislation Amendment (Access to
Justice) Act 2018**

- (1) Subject to this section, on and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**—
 - (a) the Foundation is taken to be the same body as it was immediately before that commencement, despite any changes to the constitution and membership of the Foundation and no decision, matter or thing is to be affected because of those changes; and
 - (b) the members of the Foundation remain in office on the terms and conditions on which they held office immediately before that commencement.
- (2) A person who was a member of the Foundation appointed by the Minister under section 7(1)(b) before the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018** continues to be a member of the Foundation until the expiry of that person's appointment unless one of the following occurs—

- (a) the person resigns from office or otherwise ceases to hold office as member; or
 - (b) the person is removed from office by the Minister.
- (3) Despite the amendment of section 7(1)(b) by Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the number of members of the Foundation appointed by the Minister may exceed 7 during the period of membership of a person referred to in subsection (2).
- (4) On and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the Foundation may consist of more than 8 members until the membership of one of the persons to whom subsection (2) applies ceases.
- (5) Despite section 9(4), on and from the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018**, the quorum of the Foundation is 5 members if subsection (4) applies.
- (6) The Chairperson of the Foundation under section 7(4) immediately before the commencement of Part 9 of the **Justice Legislation Amendment (Access to Justice) Act 2018** continues to be the Chairperson of the Foundation on and from that commencement until the expiry of that appointment unless one of the following occurs—

- (a) if the Chairperson is the Chief Justice, the Chief Justice resigns or otherwise ceases to hold office as Chief Justice; or
- (b) if the Chief Justice has nominated a person under section 7(1)(a)(ii), that person—
 - (i) resigns from office or otherwise ceases to hold office; or
 - (ii) is removed from office by the Chief Justice; or
 - (iii) is removed under section 8A(1)(b)."

Part 10—Victorian Civil and Administrative Tribunal Act 1998

Division 1—Acting Deputy Presidents and acting senior members

59 Acting Deputy President

- (1) In section 28(2) of the **Victorian Civil and Administrative Tribunal Act 1998**, for "3" substitute "6".
- (2) In section 28(3)(a) of the **Victorian Civil and Administrative Tribunal Act 1998**, for "must" substitute "may".
- (3) For section 28(3)(c) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—
"(c) subject to subsection (3A), is eligible for re-appointment."
- (4) After section 28(3) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—
"(3A) A person appointed as an acting Deputy President must not act as a Deputy President for a continuous period of more than 12 months, unless the Minister, in writing, approves a proposed re-appointment which would result in a person acting as a Deputy President for a continuous period of more than 12 months."

60 New section 28A inserted

After section 28 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"28A Acting senior member

- (1) If there is a vacancy in the office of a senior member or a senior member is absent or, for any other reason, is unable to perform the

- duties of office, the President may appoint an ordinary member of the Tribunal as an acting senior member.
- (2) The appointment of an acting senior member must not exceed 6 months.
- (3) A person appointed as an acting senior member—
- (a) has all the powers and may perform all the duties of the senior member for whom the acting senior member is acting; and
 - (b) may resign the acting appointment by delivering to the President a signed letter of resignation; and
 - (c) subject to subsection (4), is eligible for re-appointment.
- (4) A person appointed as an acting senior member must not act as a senior member for a continuous period of more than 12 months, unless the Minister, in writing, approves a proposed re-appointment which would result in a person acting as a senior member for a continuous period of more than 12 months.
- (5) The President may at any time terminate an acting appointment."

Division 2—Principal registrar's duty to provide reasonable assistance

61 New section 32AA inserted

After section 32 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"32AA Principal registrar to give assistance

- (1) The principal registrar is to give assistance as the principal registrar considers appropriate to—
 - (a) participants in a proceeding; and
 - (b) potential participants in a proceeding, including a person who is considering making an application but who has not yet made an application.
- (2) Assistance given under subsection (1) may be in relation to all stages or any stage of a proceeding.
- (3) To avoid doubt, assistance given under subsection (1) does not extend to providing legal advice."

62 Section 67(4) repealed

Section 67(4) of the **Victorian Civil and Administrative Tribunal Act 1998** is repealed.

Division 3—Support persons

63 New section 63A inserted

After section 63 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"63A Support persons

- (1) Unless the Tribunal directs otherwise, a party may be assisted in a proceeding by a support person for the purposes of providing emotional or other support to that party.

Example

A support person may include, but is not limited to, a family member or friend, or a person with appropriate cultural or social knowledge who provides emotional or other support to a party.

- (2) A support person referred to in subsection (1) must not—
- (a) be a party to the proceeding; or
 - (b) represent a party to the proceeding."

Division 4—Mediators

64 Compulsory conferences

- (1) For section 83(1) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"(1) Before a proceeding is heard by the Tribunal, the Tribunal or principal registrar may require the parties to the proceeding to attend one or more compulsory conferences before—

- (a) a member of the Tribunal; or
 - (b) the principal registrar; or
 - (c) a person nominated by the Tribunal or the principal registrar."
- (2) After section 83(1) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—
- "(1A) A person nominated under subsection (1)(c) or clause 52(3) of Schedule 1 to conduct a compulsory conference must not make directions under subsection (2)(d)."

65 Settlement of proceeding

After section 93(3) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

- "(4) If the parties agree to settle a proceeding or any part of it at a compulsory conference at which a person nominated under section 83(1)(c) or clause 52(3) of Schedule 1 is presiding—
- (a) the Tribunal may make any orders under subsection (1); or
 - (b) the principal registrar may exercise the Tribunal's power to make any orders under subsection (1)."

66 Schedule 1—Variations from Parts 3 and 4 for various proceedings

- (1) In clause 52(1) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, for "The" substitute "Subject to subclause (3), the".
- (2) After clause 52(2) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"(3) For a proceeding under a planning enactment, the Tribunal or principal registrar may nominate a person to conduct a compulsory conference or a mediation in accordance with Division 5 of Part 4.

(4) A person nominated under subclause (3) must have sound knowledge of, and experience in, planning or environmental practice in Victoria."

Division 5—Enforcement of orders

67 New section 120A inserted

After section 120 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"120A Re-opening an order for enforcement reasons

- (1) A person in whose favour an order of the Tribunal is made may apply to the Tribunal for review of the order to remedy a problem with enforcing or complying with the order.
- (2) An application under subsection (1) is to be made in accordance with, and within the time limits specified by, the rules.
- (3) The rules may limit the number of times a person may apply under this section in respect of the same matter without obtaining the leave of the Tribunal.
- (4) The Tribunal may vary the order, or revoke the order and make any other order that the Tribunal could have made in the proceeding in which the order was made, if the Tribunal is satisfied that—
 - (a) there are problems with enforcing or complying with the order; and
 - (b) having regard to those problems, it is appropriate to vary the order, or revoke the order and make another order (as the case requires)."

68 Section 121 substituted

For section 121 of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"121 Enforcement of monetary orders

- (1) A person in whose favour a monetary order is made may enforce the order in—
 - (a) if the amount owing under the order is within the jurisdictional limit of the Magistrates' Court, the Magistrates' Court; or
 - (b) otherwise, either the County Court or the Supreme Court.
- (2) For the purposes of the enforcement of a monetary order under subsection (1), the order is taken to be an order of the court in which it is to be enforced."

69 Section 122 substituted

For section 122 of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"122 Enforcement of non-monetary orders

- (1) A person in whose favour a non-monetary order is made may enforce the order in the Supreme Court.
- (2) For the purposes of the enforcement of a non-monetary order under subsection (1), the order is taken to be an order of the Supreme Court."

70 Contempt

- (1) After section 137(1)(e) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"(ea) fail to comply with an order of the Tribunal in circumstances where, if the order were an order of the Supreme Court, the failure would constitute contempt of that Court; or".

- (2) In section 137(10) of the **Victorian Civil and Administrative Tribunal Act 1998**, for "judicial" substitute "presidential".

71 Schedule 2 amended

In Schedule 2 to the **Victorian Civil and Administrative Tribunal Act 1998**, for the entry relating to "Procedure for filing orders" substitute—

"Enforcement of orders of the Tribunal in courts, including the procedure for transmitting orders to courts.".

Division 6—Service

72 Service

- (1) For section 140(1)(a)(ii) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"(ii) by sending it by post to the person at his or her usual or last known residential or business address; or

(ia) subject to the rules, by sending it by electronic communication to the electronic address applicable to the person under the rules; or".

- (2) For section 140(1)(b)(ii) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—
- "(ii) by sending it by post to the registered office of the company; or
 - (ia) subject to the rules, by sending it by electronic communication to the electronic address applicable to the company under the rules; or".
- (3) In section 140(2) of the **Victorian Civil and Administrative Tribunal Act 1998**, for "a notice" substitute "a notice, order".
- (4) For section 140(2)(b) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—
- "(b) by sending it by post to the president, secretary or other similar officer of the association at that person's usual or last known residential or business address; or
 - (ba) subject to the rules, by sending it by electronic communication to the electronic address applicable to the president, secretary or other similar officer of the association under the rules; or".
- (5) After section 140(2) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—
- "(2A) Rules for the purposes of subsections (1)(a)(ia), (1)(b)(ia) and (2)(ba) may only prescribe, as an electronic address that is applicable to a person or company—
- (a) an electronic address that has been provided to the Tribunal by the person or company (including by the person or company communicating with the Tribunal from that address); or

- (b) an electronic address—
 - (i) from which the person or company has communicated with a party, or potential party, to the proceeding to which the notice, order or other document relates; and
 - (ii) that is provided to the Tribunal by that party or potential party."
- (6) After section 140(3) of the **Victorian Civil and Administrative Tribunal Act 1998** insert—
 - "(4) Despite section 8 of the **Electronic Transactions (Victoria) Act 2000**, a notice, order or other document served or given by electronic communication in accordance with this section is taken to have been served or given whether or not the person on whom it is served, or to whom it is given, consented to it being served or given by means of electronic communication."

73 When is service effective?

- (1) In section 141(1) of the **Victorian Civil and Administrative Tribunal Act 1998**, for "a notice" **substitute** "a notice, order".
- (2) For section 141(1)(a) of the **Victorian Civil and Administrative Tribunal Act 1998** **substitute**—
 - "(a) in the case of delivery in person—
 - (i) if the document was delivered on a business day before 4.00 p.m., at the time of delivery; or
 - (ii) in any other case, on the business day following the day of delivery;"

(3) For section 141(1)(c) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"(c) in the case of electronic communication—

- (i) if the communication was delivered on a business day before 4.00 p.m., at the time of delivery; or
- (ii) in any other case, on the business day following the day of delivery."

(4) For section 141(2) of the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"(2) For the purposes of subsection (1)(c), unless the rules provide otherwise, an electronic communication is *delivered*—

- (a) unless paragraph (b) applies, at the time the communication was dispatched; or
- (b) if the Tribunal finds that the communication was not capable of being retrieved until a later time, at that later time.

Note

Section 13 of the **Electronic Transactions (Victoria) Act 2000** specifies the time of dispatch of an electronic communication.

- (2A) Subsections (1)(c) and (2) apply despite section 13A of the **Electronic Transactions (Victoria) Act 2000**."

74 Schedule 2 amended

In Schedule 2 to the **Victorian Civil and Administrative Tribunal Act 1998**, before the entry relating to "Contents of register of proceedings" **insert**—

"Service by electronic communication, including the electronic address for that service, requirements to provide an electronic address for

service, requirements for that service and circumstances in which that service is not permitted."

Division 7—Requests for written reasons for small civil claims

75 Schedule 1 amended

In Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, clause 4J is repealed.

Division 8—Transitional provisions

76 Sections 172, 173 and 174 inserted

At the end of Part 7 of the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"172 Transitional—Justice Legislation Amendment (Access to Justice) Act 2018—general provisions

- (1) Section 120A applies to an order of the Tribunal made before, on or after the commencement of section 67 of the **Justice Legislation Amendment (Access to Justice) Act 2018**.
- (2) Despite the repeal of clause 4J of Schedule 1, that clause continues to apply, on and after its repeal, in relation to an order made before that repeal.

173 Transitional—Justice Legislation Amendment (Access to Justice) Act 2018—enforcement of monetary orders

- (1) This section applies to a monetary order that was made before the day on which section 68 of the **Justice Legislation Amendment (Access to Justice) Act 2018**

comes into operation (the *commencement day*).

- (2) Subject to subsection (3), section 121 as substituted by section 68 of the **Justice Legislation Amendment (Access to Justice) Act 2018** applies to the monetary order.
- (3) If, before the commencement day, the monetary order was taken to be an order of a court under section 121(3) as then in force, section 121 as then in force continues to apply despite its substitution by section 68 of the **Justice Legislation Amendment (Access to Justice) Act 2018**.

174 Transitional—Justice Legislation Amendment (Access to Justice) Act 2018—enforcement of non-monetary orders

- (1) This section applies to a non-monetary order that was made before the day on which section 69 of the **Justice Legislation Amendment (Access to Justice) Act 2018** comes into operation (the *commencement day*).
- (2) Subject to subsection (3), section 122 as substituted by section 69 of the **Justice Legislation Amendment (Access to Justice) Act 2018** applies to the non-monetary order.
- (3) If, before the commencement day, the non-monetary order was taken to be an order of a court under section 122(3) as then in force, section 122 as then in force continues to apply despite its substitution by section 69 of the **Justice Legislation Amendment (Access to Justice) Act 2018**."

Part 11—Repeal of amending Act

77 Repeal of amending Act

This Act is **repealed** on 1 July 2021.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 28 March 2018

Legislative Council: 9 May 2018

The long title for the Bill for this Act was "A Bill for an Act to amend the **Australian Consumer Law and Fair Trading Act 2012**, the **Births, Deaths and Marriages Registration Act 1996**, the **Civil Procedure Act 2010**, the **County Court Act 1958**, the **Legal Aid Act 1978**, the **Legal Profession Uniform Law Application Act 2014**, the **Magistrates' Court Act 1989**, the **Victoria Law Foundation Act 2009** and the **Victorian Civil and Administrative Tribunal Act 1998** and for other purposes."