

LEGISLATIVE ASSEMBLY

CRIMES AMENDMENT (RETAIL, FAST FOOD, HOSPITALITY AND
TRANSPORT WORKER HARM) BILL 2025(Amendments and New Clauses to be moved by Mr James Newbury)

1. Clause 1, lines 5 and 6, omit "assaulting, or threatening to assault" and insert "assaulting".
2. Clause 1, page 2, line 9, omit "new offences" and insert "a new offence".
3. Clause 1, page 2, line 9, omit "assaulting, or".
4. Clause 1, page 2, line 11, omit "intimidates," and insert "intimidates"
5. Clause 1, page 2, after line 15 insert—

"(ba) to amend the **Magistrates' Court Act 1989** to provide for the Magistrates' Court to make orders to prevent and reduce unacceptable conduct engaged in by members of the public in certain workplaces; and".
6. Clause 3, omit this clause.
7. Clause 10, line 23, omit "**Assaulting**" and insert "**Miscellaneous provisions regarding**".
8. Clause 10, page 14, lines 17 to 33, omit all words and expressions on these lines.
9. Clause 10, page 15, lines 1 to 10, omit all words and expressions on these lines.
10. Page 16, after line 23 insert the following heading—

**"Part 3A—Amendment of Magistrates' Court Act
1989".**

NEW CLAUSES

11. Insert the following New Clause to follow clause 2—

'3 New section 31AA inserted

After section 31 of the **Crimes Act 1958** insert—

"31AA Assaulting applicable customer-facing workers

- (1) A person must not assault an applicable customer-facing worker in connection with the performance of the worker's duties, knowing or being reckless as to whether the person is an applicable customer-facing worker.

Penalty: If the assault does not cause physical injury, 4 years imprisonment;

If the assault causes a physical injury that is not a serious injury, 6 years imprisonment;

If the assault causes a serious injury, 11 year imprisonment.

- (2) Without limiting subsection (1), an assault is connected with the performance of the worker's duties if the assault occurs—
- (a) when the worker is—
 - (i) performing their duties; or
 - (ii) taking a break from performing their duties; or
 - (iii) arriving at, or leaving, a place at which they perform their duties; or
 - (b) in response to—
 - (i) a thing done or omitted to be done by the worker when performing their duties; or
 - (ii) a thing that the person believes the worker has done or omitted to do when performing their duties.
- (3) To avoid doubt, in this section, *assault* does not have the meaning given by section 31(2).
- (4) In this section—

applicable customer-facing worker has the meaning given by section 51C of the **Summary Offences Act 1966**."

12. Insert the following New Clause to follow clause 11 and the heading proposed by amendment 10—

'11A New Part 6A inserted

After section 114 of the **Magistrates' Court Act 1989** insert—

"Part 6A—Workplace protection

Division 1—Preliminary

114A Purposes of this Part

The purposes of this Part are—

- (a) to prevent and reduce unacceptable conduct engaged in by members of the public in certain workplaces; and
- (b) to facilitate the safety and protection of people who fear or experience unacceptable conduct at work by providing a legally enforceable mechanism to prevent that conduct; and

- (c) to provide for perpetrators of unacceptable conduct at work to be accountable for that conduct; and
- (d) to allow for the resolution of conflict without the need for adjudication.

114B Definitions

In this Part—

employee means a person who performs duties in a relevant capacity, within the meaning of section 51C(3) of the **Summary Offences Act 1966**, for an entity;

employer means an entity for whom another person performs duties in a relevant capacity within the meaning of section 51C(3) of the **Summary Offences Act 1966**;

interim workplace protection order means an order made under section 114G(1);

protected person means a person who is specified in a workplace protection order or an interim workplace protection order as a person who is protected by the order;

respondent means a person—

- (a) in relation to whom an application for a workplace protection order has been made; or
- (b) against whom a workplace protection order has been made;

unacceptable conduct has the meaning given by section 114C;

workplace has the meaning given by section 114D;

workplace protection order means an order made under section 114H(1).

114C Meaning of *unacceptable conduct*

In this Part, to engage in ***unacceptable conduct*** in relation to another person is to do any of the following—

- (a) to engage in conduct towards that person that is—
 - (i) physically or sexually violent or abusive; or
 - (ii) threatening, harassing, intimidating or offensive; or
- (b) to commit an offence against section 21A of the **Crimes Act 1958** (stalking) in relation to that person, whether by engaging in conduct described in paragraph (a) or otherwise; or
- (c) to damage the property of that person.

114D Meaning of *workplace*

- (1) In this Part, a ***workplace*** is a place where an employee performs, for their employer, duties that—

- (a) are performed in the carrying out of a business or undertaking; and
 - (b) involve direct interaction with a member of the public (whether or not that interaction is in person); and
 - (c) is not prescribed for the purposes of this paragraph.
- (2) In this section—

place includes—

- (a) a vehicle, vessel, aircraft or other mobile structure; and
- (b) any waters and any installation on land, on the bed of any waters or floating on any waters.

Division 2—Workplace protection orders

114E Employer may apply for workplace protection order

- (1) An employer, or a person authorised to do so by an employer, may apply to the Court for a workplace protection order in relation to a place, specified in the application, that is a workplace in relation to that employer.
- (2) An application under subsection (1) must specify whether an interim workplace protection order is sought.

114F Preliminary conference

- (1) A preliminary conference is a conference, conducted by a magistrate, between an applicant and the respondent for the purposes of—
 - (a) determining whether the respondent may consent to the making of the workplace protection order; and
 - (b) ensuring that the application is ready to be heard as soon as practicable.
- (2) On an application under section 114E, the Court must direct the applicant and the respondent to appear at a preliminary conference unless—
 - (a) the application specifies that an interim workplace protection order is sought; or
 - (b) the Court is satisfied, on application or on its own initiative, that—
 - (i) holding a preliminary conference would create an unacceptable risk to a person's safety; or
 - (ii) a preliminary conference would be unlikely to achieve the purposes set out in subsection (1).

- (3) If the Court gives a direction under subsection (2), the appropriate registrar must issue a summons requiring the respondent to attend at the court for the preliminary conference.
- (4) A summons under subsection (3) must be served on the respondent—
 - (a) personally; or
 - (b) in some other manner authorised by the Court.
- (5) During a preliminary conference, the Court may refer the parties to mediation if the Court is satisfied that this is appropriate in the circumstances.
- (6) Subject to subsection (7), the following evidence is not admissible in any proceeding before any court or tribunal, or in any inquiry in which evidence is or may be given before any person acting judicially—
 - (a) evidence of anything said or done in the course of a preliminary conference;
 - (b) evidence of any document prepared solely for the purposes of a preliminary conference.
- (7) Evidence is not inadmissible under subsection (6) if—
 - (a) the respondent and the applicant agree to the evidence being admitted; or
 - (b) the proceeding in which the evidence is to be admitted is a criminal proceeding for an offence alleged to have been committed during, or in connection with, the preliminary conference.

114G Making of interim workplace protection order

- (1) Before determining an application for a workplace protection order, the Court may make an order that requires a respondent to comply, for an interim period, with the conditions to be imposed under the order in accordance with section 114I if the Court is satisfied that it is necessary to do so before determining the application in order to—
 - (a) ensure the safety of any person at the workplace to which the application relates; or
 - (b) prevent substantial damage to property at that workplace.

Note

Section 114I provides for the conditions imposed under these orders.

- (2) An interim workplace protection order ceases to have effect at the following time—
 - (a) if a workplace protection order is made on the application referred to in subsection (1), when that order comes into effect; or

- (b) if the application is withdrawn or otherwise determined without a workplace protection order being made, when it is withdrawn or determined.

Note

Commencement of the order is provided for by section 114J.

- (3) Nothing in subsection (2) prevents the Court from revoking the order before the end of the period set out in that subsection.
- (4) In making an interim workplace protection order, the Court must specify the place that is the workplace in respect of which the order is made.

114H Making of workplace protection order

- (1) On an application under section 114E, the Court may make an order that requires a respondent to comply with the conditions to be imposed under the order in accordance with section 114I if—
 - (a) the Court is satisfied that the respondent—
 - (i) has engaged in unacceptable conduct in relation to the workplace in respect of which the application is made; and
 - (ii) may engage in unacceptable conduct in relation to that workplace during the proposed duration of the order if the order were not made; or
 - (b) the respondent consents to the making of an order imposing those conditions.

Note

Section 114I provides for the conditions imposed under these orders.

- (2) In determining whether to be satisfied as described in subsection (1)(a), the Court—
 - (a) must have regard to—
 - (i) the purpose of this Part; and
 - (ii) any hardship that may be caused to the respondent by the making of the order; and
 - (iii) any unacceptable conduct engaged in by the respondent, whether in relation to the workplace or not; and
 - (iv) what is already (or has previously been) required of the respondent by an instrument referred to in subsection (3) of which the Court is aware; and
 - (v) any previous contravention by the respondent of an instrument referred to in subsection (3) of which the Court is aware; and
 - (vi) the need to ensure that property is protected from damage; and

- (b) may have regard to anything else that the Court considers relevant.
- (3) The instruments specified for the purposes of subsection (2)(a)(iv) and (v) are—
 - (a) an undertaking that the respondent has given to a court (including a bail undertaking within the meaning of the **Bail Act 1977**);
 - (b) an order made, or a direction given, by a court or a tribunal;
 - (c) a correctional order within the meaning of the **Corrections Act 1986**;
 - (d) a family violence safety notice issued under the **Family Violence Protection Act 2008**; or
 - (e) a corresponding interstate order, within the meaning of the **Personal Safety Intervention Orders Act 2010**, that is registered under Part 9 of that Act;
 - (f) a corresponding New Zealand order, within the meaning of the **Personal Safety Intervention Orders 2010**, that is registered under Part 9 of that Act; or
 - (g) a recognised DVO within the meaning of the **National Domestic Violence Order Scheme Act 2016**; or
 - (h) a firearm prohibition order within the meaning of Part 4A of the **Firearms Act 1996**; or
 - (i) any other instrument that applies to the respondent.
- (4) A failure of the Court to comply with subsection (2) in making a workplace protection order does not affect the validity of the order.
- (5) If the Court is to make a workplace protection order in accordance with subsection (1)(b)—
 - (a) it does not matter whether the Court would be satisfied as described in subsection (1)(a); and
 - (b) the Court does not need to have regard to the matters set out in subsection (2).
- (6) In making an interim workplace protection order, the Court must specify the place that is the workplace in respect of which the order is made.

114I Conditions

- (1) The conditions that the Court may impose under an workplace protection order or an interim workplace protection order are the conditions that the Court considers are the least restrictive of the personal rights and liberties of the respondent as possible that still achieve the purpose of this Part and give effect to subsection (2).

- (2) In determining the conditions to be imposed, the Court must give paramount consideration to the safety and protection of—
 - (a) the employer who made, or on whose behalf was made, the application on which the order is made; and
 - (b) that employer's employees; and
 - (c) the other persons in the workplace in respect of which the order is made.
- (3) Without limiting subsection (1), a condition referred to in that subsection may—
 - (a) prohibit the respondent from entering the workplace in respect of which the order is made; or
 - (b) prohibit the respondent from being within a specified distance of that workplace; or
 - (c) prohibit the respondent from engaging in unacceptable conduct in relation to that workplace; or
 - (d) prohibit the respondent from inciting, facilitating or encouraging anyone else to engage in unacceptable conduct in relation to that workplace; or
 - (e) restrict the circumstances and manner in which the respondent may approach or contact a specified person.
- (4) A reference in subsection (3) to a condition prohibiting the respondent from doing a thing includes prohibiting that thing either—
 - (a) absolutely; or
 - (b) only in specified circumstances or in a specified manner.
- (5) A condition imposed under a workplace protection order or an interim workplace protection order may be imposed for a specified period that is shorter than the duration of the order.
- (6) In addition to the conditions imposed under subsection (1), the Court must impose a condition requiring the respondent to surrender all firearms (within the meaning of the **Firearms Act 1996**) and ammunition to a police station unless satisfied that—
 - (a) there are cogent reasons not to impose the condition; and
 - (b) the respondent possessing those firearms and ammunition does not represent an undue risk to the safety and protection of a person referred to in subsection (2).
- (7) Section 112T of the **Firearms Act 1996** applies in relation to the surrender of firearms and ammunition under subsection (6) subject to the modification set out in subsection (8).
- (8) Section 112T(2) of the **Firearms Act 1996**, as applied by subsection (7), authorises the police officer referred to in that subsection to

retain the firearms and ammunition until there is no longer in force any workplace protection order or interim workplace protection order against the respondent that includes the condition provided for by subsection (6).

114J Commencement of order

- (1) If the respondent is present in the court when a workplace protection order or interim workplace protection order is made, the order comes into effect at that time.
- (2) If the respondent is not present in the court when a workplace protection order or interim workplace protection order is made—
 - (a) the appropriate registrar must serve the order on the respondent, whether personally or in some other manner authorised by the Court; and
 - (b) the order comes into effect when it is served.

114K Explaining order

- (1) If the respondent is present in the court when the Court makes a workplace protection order or an interim workplace protection order, the Court must explain to the respondent, in language likely to be readily understood by the respondent—
 - (a) the purpose, terms and effect of the order; and
 - (b) the consequences of failing to comply with the order; and
 - (c) how the order may be varied or revoked.
- (2) If any of the following persons is present in the court when the Court makes a workplace protection order or an interim workplace protection order, the Court must give the person the explanation described in subsection (3) in language likely to be readily understood by the person—
 - (a) the employer for the workplace in respect of which the order is made;
 - (b) an employee of that employer.
- (3) The explanation under subsection (2) must explain—
 - (a) the purpose, terms and effect of the order; and
 - (b) the consequences of failing to comply with the order; and
 - (c) how the order may be varied or revoked; and
 - (d) that if the person encourages, permits or authorises the respondent in committing an offence against section 114N, the person may also commit an offence.
- (4) A failure of the Court to comply with this section does not affect the validity of a workplace protection order or interim workplace protection order.

114L Duration of workplace protection order

- (1) In making a workplace protection order, the Court may specify a period of the order.
- (2) The Court must not specify a period longer than 12 months unless satisfied that exceptional circumstances justify that longer period.
- (3) If the Court specifies a period under subsection (1), the workplace protection order has effect until the end of the period.
- (4) If the Court does not specify a period under subsection (1), the workplace protection order has effect until the first anniversary of the day on which it comes into effect.

114M Variation and revocation of workplace protection order

- (1) Any of the following persons may apply for the variation or revocation of a workplace protection order or an interim workplace protection order—
 - (a) the employer for the workplace specified in the order under section 114G(4) or 114H(6);
 - (b) a person authorised to apply for the variation or revocation by that employer;
 - (c) subject to subsection (2), the respondent.
- (2) A second or subsequent application under subsection (1) that is to be made by the respondent must not be made without the leave of the Court.
- (3) The Court must not grant leave under subsection (2) unless satisfied that—
 - (a) there has been a material change in the circumstances of—
 - (i) the respondent; or
 - (ii) the employer who made, or on whose behalf was made, the application on which the order was made; or
 - (iii) any of that employer's employees; or
 - (iv) any other person in the workplace in respect of which the order is made; and
 - (b) it is interests of justice to grant leave.
- (4) On an application under subsection (1), the Court may vary or revoke the order if—
 - (a) the Court is satisfied that the variation or revocation will not adversely affect the safety of
 - (i) the employer who made, or on whose behalf was made, the application on which the order was made; and
 - (ii) that employer's employees; and

- (iii) the other persons in the workplace in respect of which the order is made; and
- (b) in the case of a variation, the Court is satisfied that, if an application had been made under section 114E to make the order as proposed to be varied—
 - (i) making that order would have been in accordance with section 114G or 114H (as the case requires); and
 - (ii) imposing the conditions to be imposed under that order would have been in accordance with section 114I.
- (4) In varying an order under subsection (3), the Court may—
 - (a) subject to subsection (5), vary or revoke a condition of the order;
 - (b) reduce the period for which the order is in force;
 - (c) extend the period for which the order is in force.
- (5) The Court must not revoke the condition imposed in accordance with section 114I(6) unless satisfied that—
 - (a) there are cogent reasons to revoke the condition; and
 - (b) the respondent possessing the firearms and ammunition whose surrender was required by the condition does not represent an undue risk to the safety and protection of a person referred to in subsection (4)(a).
- (6) The Court may extend the period for which an order is in force so that the order is in force a period longer than 12 months without being satisfied that exceptional circumstances justify that longer period.

114N Offence to contravene order

- (1) A person who is a respondent to a workplace protection order or an interim workplace protection order must not contravene the order.
 Penalty: If the person contravenes the order by engaging in unacceptable conduct, level 6 imprisonment (5 years maximum);
 Otherwise, level 7 imprisonment (2 years maximum).
- (2) An offence against subsection (1) is an indictable offence.
- (3) Despite section 28(1) of the **Criminal Procedure Act 2009**, a charge for an offence against subsection (1) must not be heard and determined summarily.

Division 3—Miscellaneous

114O Copies of orders to be given

As soon as practicable after a workplace protection order or an interim workplace protection order is made, the appropriate registrar must give a copy of the order to—

- (a) the employer for the workplace in respect of which the order was made; and
- (b) if the order was made on the application of another person, that other person; and
- (c) the Chief Commissioner of Police; and
- (d) any other person as directed by the Court.

114P Provision of information by police

- (1) The Court may request the Chief Commissioner of Police to give the Court any of the following information—
 - (a) the name and address of the respondent to an application for a workplace protection order;
 - (b) that respondent's relevant history.
- (2) An employer may request the Chief Commissioner of Police to give the person any of the following information—
 - (a) the name and address of a person whom the person alleges has engaged in unacceptable conduct in relation to the employer's workplace;
 - (b) that person's relevant history, to the extent that it is relevant to an application for a workplace protection order that the employer has made or may make.
- (3) Subject to this section, the Chief Commissioner of Police may comply with a request under subsection (1) or (2).
- (4) The Chief Commissioner of Police must not comply with a request under subsection (2) unless the Chief Commissioner of Police is satisfied that there are reasonable grounds on which to suspect that the person in respect of whom the request is made has engaged in unacceptable conduct in relation to the employer's workplace.
- (5) Nothing in this section authorises the Chief Commissioner of Police to give any information in contravention of a provision of another Act that prohibits the Chief Commissioner of Police from doing so.
- (6) In complying with a request under subsection (1) or (2), the Chief Commissioner of Police must not give personal information relating to a person other than the person about whom the request is made unless the giving of that information is required or authorised by or under another Act or law.
- (7) An employer who is provided with information under this section must not use the information other than—
 - (a) for the purposes of making an application under this Part; or

(b) in proceedings under this Part.

Penalty: Level 9 fine (60 penalty units maximum).

(8) In this section—

personal information means information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

relevant history, of a person means—

- (a) convictions for offences committed by the person, whether those offences—
 - (i) were committed before or after the commencement of this section; and
 - (ii) are against a law of Victoria or of any other jurisdiction; and
- (b) charges against the person that have yet to be finally determined, whether those charges are for offences—
 - (i) alleged to have been committed before or after the commencement of this section; and
 - (ii) against a law of Victoria or of any other jurisdiction; and
- (c) information about any workplace protection order or interim workplace protection order made against the person; and
- (d) information about any instrument referred to in section 114H(3) that requires, or has required, anything of the person; and
- (e) prescribed information; and
- (f) information of a prescribed class.

114Q Costs

- (1) Each party to a proceeding under this Part must bear the party's own costs.
- (2) Despite subsection (1), in a proceeding under this Part—
 - (a) the Court may make an order about costs if the court decides that exceptional circumstances make it appropriate to do so; and
 - (b) if the Court is satisfied that the application to which the proceeding relates was made vexatiously, frivolously or in bad faith, the Court may award costs against the applicant.

- (3) For the purposes of subsection (2), the mere fact that an application is made and then withdrawn is not exceptional and does not amount in itself to a vexatious or frivolous application or an application made in bad faith.

114R Standard of proof

Any question of fact to be decided by a court on an application under this Part is to be decided on the balance of probabilities.

114S Consequential and ancillary orders and warrants

- (1) The Court may, on making or varying a workplace protection order or an interim workplace protection order, make any consequential or ancillary order it thinks fit.
- (2) Without limiting subsection (1), if the workplace protection order or interim workplace protection order includes—
- (a) a condition under section 114I(6) requiring the surrender of firearms and ammunition;
 - (b) a condition requiring the surrender of any other weapon article—

the Court may make an order providing for that surrender.

- (3) If—
- (a) the Court makes an order under subsection (2); and
 - (b) the magistrate constituting the Court considers that the circumstances of the case require the issue of a search warrant—

that magistrate may issue a search warrant that confers authority as set out in subsection (4).

- (4) A search warrant referred to in subsection (3) authorises any police officer named in the warrant—
- (a) to enter the premises, or the part of the premises, named or described in the warrant; and
 - (b) to search for and seize a thing named or described in the warrant, being the thing the surrender of which is required; and
 - (c) if the thing is a firearm or ammunition, to bring it to a police station; and
 - (d) if the thing is any other weapon or article, to bring the thing before the Magistrates' Court so that the matter may be dealt with according to law.
- (5) In dealing with the matter as described in subsection (4)(d), the Magistrates' Court may direct that the thing be destroyed or disposed of as directed by the Court.
- (6) A direction under subsection (5) authorises the destruction or disposal of the thing to which it relates.

- (7) A search warrant issued under this section must be issued in accordance with this Act and in the form prescribed under this Act.
- (8) The rules that apply to search warrants under this Act apply to a search warrant under this section.

114T Review of this Part

- (1) As soon as practicable after the first anniversary of the commencement of this Part, the Minister must cause—
 - (a) a review to be undertaken of this whether this Part is being applied appropriately and is achieving its purpose; and
 - (b) a report of that review to be prepared.
- (2) The report of the review may include recommendations in relation to whether this Part should be amended.
- (3) The review must be completed and a report of the review must be given to the Minister before the second anniversary of the commencement of this Part.
- (4) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament as soon as practicable after the Minister is given the report.

AMENDMENT OF LONG TITLE

- 13. Long title, after "burglary," insert "to amend the **Magistrates' Court Act 1989** to provide for the Magistrates' Court to make orders to prevent and reduce unacceptable conduct engaged in by members of the public in certain workplaces,".