



Media release

The Hon Robert Clark MP
Attorney-General
Minister for Finance
Minister for Industrial Relations

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New laws to support court and judicial reforms

Legislation brought into Parliament this week by the Napthine Government will support a wide range of reforms relating to Victoria's courts and judiciary, Attorney-General Robert Clark said today.

The reforms include:

- establishing a Judicial Commission of Victoria to promote the highest standards of judicial conduct and to receive and act on complaints about misconduct or poor conduct;
- streamlining appeals to the Court of Appeal in civil cases, in order to weed out unjustified appeals and allow the Court to hear and decide appeals of genuine merit more quickly;
- allowing appeals to the Supreme Court against coroners' decisions not to hold an inquest or re-open an investigation;
- providing greater flexibility for magistrates to ensure committal proceedings focus on the key issues and avoid unjustified cross-examination of witnesses;
- empowering the Children's Court to hear and decide issues about whether alleged child offenders were mentally impaired at the time of offending or are unfit to stand trial due to mental impairment, rather than these matters having to be referred to the County Court;
- establishing a Judicial Entitlements Panel to make independent assessments and recommendations regarding non-salary entitlements for judges, magistrates and VCAT members;
- prohibiting the unauthorised making or publication of audio or video recordings of court proceedings;
- simplifying the processes for VCAT members to change their hours of service and to transfer between sessional and non-sessional service; and
- providing greater flexibility to the courts regarding the review of judicial registrars' decisions.

"The Government is delivering on our election promise to establish a judicial commission to handle complaints about judicial conduct," Mr Clark said.

"The Commission will provide independent investigation of complaints and will also be able to issue guidelines on ethical and professional standards for judges.

"The legislation will also ensure that complaints to the Commission will not be able to be used as a backdoor substitute for appeals simply because a party disagrees with a judge's findings on a case."

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The Commission will be able to receive complaints from members of the community and from legal professional bodies about matters ranging from rudeness in court and unreasonable delays in judgements through to issues of serious misconduct or incapacity.

Complaints will be able to be investigated by a Conduct Division panel of whom a majority will not be serving judges. Where a panel finds a complaint substantiated, it will be able to make recommendations for remedial action to the relevant head of jurisdiction, or in serious cases make a report that could lead to removal from office by Parliament under the Constitution Act for proved misbehaviour or incapacity.

Under the civil appeals reforms, leave to appeal will be required for almost all types of civil appeal to the Court of Appeal. The reforms are similar to the highly successful 'Ashley-Venne' reforms to criminal appeals previously introduced by the Court of Appeal.

"The timely resolution of civil appeals is vital for the parties involved, whether they be individuals, businesses, governments or other entities," Mr Clark said.

"These civil appeal reforms will build on other reforms to civil proceedings already introduced by the court and will help give parties confidence that if they issue proceedings in the Supreme Court, those proceedings will be dealt with through to final conclusion in a timely and just manner."

Mr Clark said the legislation would also restore the right for the family of a deceased person to appeal to the Supreme Court against a coroner's decision not to hold an inquest or to re-open an investigation into a death.

"The Supreme Court will be able to require an inquest to be held or an investigation re-opened where satisfied it is necessary or desirable in the interests of justice to do so," Mr Clark said.

"In life and death matters, it is important that there be a right of appeal on such crucial decisions. The amendments we are making will restore this valuable right that the previous Labor government removed."

Mr Clark said the reforms to committals would give the Magistrates' Court greater flexibility in determining how committal hearings are conducted, including being able to ensure that cross-examination of witnesses was justified.

The laws in relation to children who were mentally impaired at the time of an alleged offence or may be unfit to stand trial will make specific provision for the Children's Court to hear these cases and to make appropriate orders.

"This reform will ensure that these cases do not have to go through a complex process in the higher courts that was designed for adults, and will allow the Children's Court to determine these matters more quickly and appropriately, to the benefit of all concerned," Mr Clark said.

The restrictions on unauthorised audio or video recordings of court proceedings will help protect the security and good order of court proceedings. A standing exemption will apply to audio recordings by journalists and lawyers in specified circumstances.

Debate on the Bills implementing these various reforms – the *Courts Miscellaneous Amendments Bill*, the *Judicial Commission Bill*, the *Judicial Entitlements Bill* and the *Criminal Organisations Control and Other Acts Amendment Bill* – has been adjourned until Parliament resumes sittings in August.