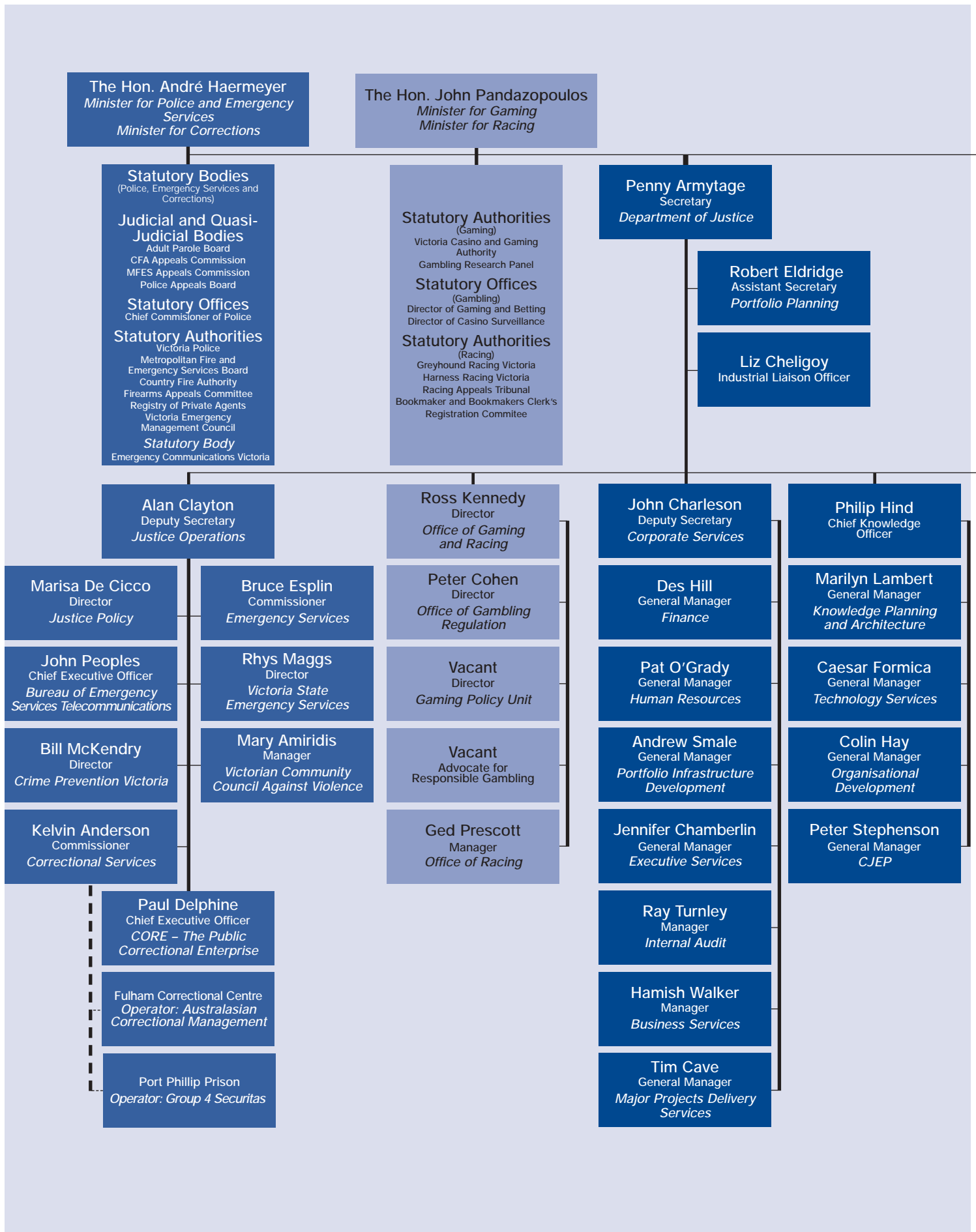
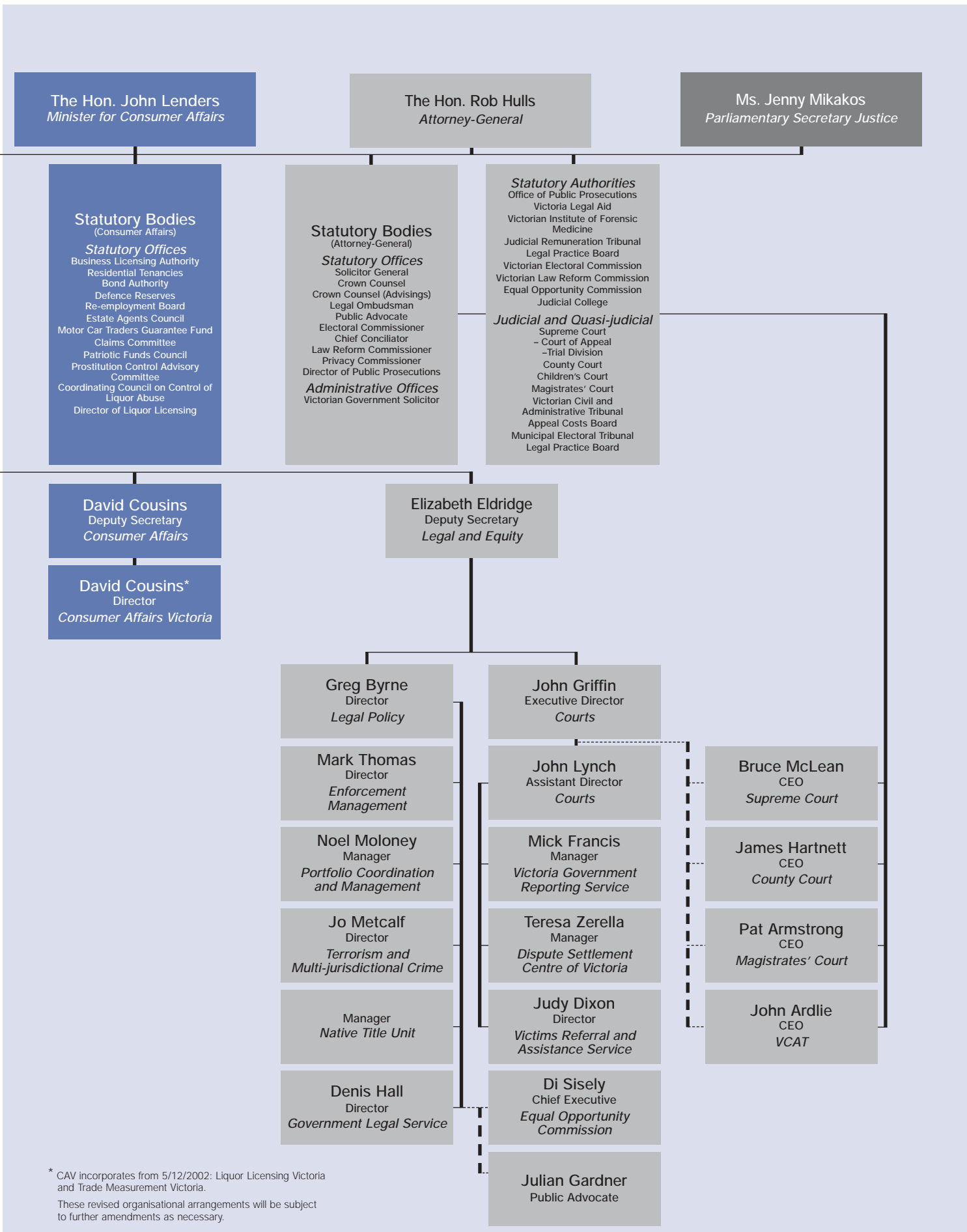


# Supplementary Information

# Appendix A: Organisation chart

As at 30 June 2003





\* CAV incorporates from 5/12/2002: Liquor Licensing Victoria and Trade Measurement Victoria.  
These revised organisational arrangements will be subject to further amendments as necessary.

## Appendix B: Legislative responsibilities

### B1: Acts administered by the Justice Portfolio as at 30 June 2003

#### Attorney-General

##### *Accident Compensation Act 1985*

Division 1 of Part III (The remaining provisions are administered by the Minister for WorkCover and the Treasurer)

##### *Acts Enumeration and Revision Act 1958*

##### *Administration and Probate Act 1958*

##### *Administrative Law Act 1978*

##### *Adoption Act 1984*

(The Act is jointly and separately administered with the Minister for Community Services)

##### *Age of Majority Act 1977*

##### *Alcoholics and Drug-dependent Persons Act 1968*

Sections 11, 14 and 15 (the remaining provisions are administered by the Minister for Health)

##### *Appeal Costs Act 1998*

##### *Attorney-General and Solicitor-General Act 1972*

##### *Bail Act 1977*

##### *Charities Act 1978*

##### *Children and Young Persons Act 1989*

(The Act is jointly and separately administered with the Minister for Community Services)

##### *Choice of Law (Limitation Periods) Act 1993*

##### *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995*

##### *Commercial Arbitration Act 1984*

##### *Commonwealth Places (Administration of Laws) Act 1970*

##### *Commonwealth Powers (Family Law-Children) Act 1986*

##### *Companies (Application of Laws) Act 1981*

##### *Confiscation Act 1997*

##### *Constitution Act 1975*

Part III Section 88 so far as it relates to the appointment of Senior Counsel, Crown Counsel and Crown Counsel (Advicings) (the remaining provisions are administered by the Premier)

##### *Constitution Act Amendment Act 1958, The*

##### *Constitution (Supreme Court) Act 1989*

##### *Constitutional Powers (Coastal Waters) Act 1980*

##### *Constitutional Powers (Request) Act 1980*

##### *Cooperative Schemes (Administrative Actions) Act 2001*

##### *Coroner's Act 1985*

##### *Corporations (Administrative Actions) Act 2001*

##### *Corporations (Ancillary Powers) Act 2001*

##### *Corporations (Commonwealth Powers) Act 2001*

##### *Corporations (Victoria) Act 1990*

##### *Council of Law Reporting in Victoria Act 1967*

##### *County Court Act 1958*

##### *Courts (Case Transfer) Act 1991*

##### *Court Security Act 1980*

##### *Crimes Act 1958*

##### *Crimes at Sea Act 1999*

##### *Crimes (Criminal Trials) Act 1999*

##### *Crimes (Family Violence) Act 1987*

##### *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*

Except sections 48–55, 57A, 58, 60–63(1), 64–73 (which are jointly administered with the Minister for Health and the Minister for Community Services)

##### *Crown Proceedings Act 1958*

##### *Cul-de-sac Applications Act 1965*

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (this part of the Act is administered by the Minister for Planning)

##### *Domestic Building Contracts Act 1995*

Part 5 (the remaining provisions are administered by the Minister for Consumer Affairs)

##### *Domicile Act 1978*

##### *Electoral Boundaries Commission Act 1982*

##### *Electronic Transactions (Victoria) Act 2000*

##### *Equal Opportunity Act 1995*

##### *Evidence Act 1958*

##### *Evidence (Commissions) Act 1982*

##### *Federal Courts (State Jurisdiction) Act 1999*

##### *Fences Act 1968*

Except section 19 (this provision is administered by the Minister for Planning)

##### *Foreign Judgments Act 1962*

##### *Freedom of Information Act 1982*

##### *Futures Industry (Application of Laws) Act 1986*

##### *Guardianship and Administration Act 1986*

##### *Housing Act 1983*

Part VI (the remaining provisions are administered by the Minister for Housing)

##### *Imperial Acts Application Act 1980*

##### *Imprisonment of Fraudulent Debtors Act 1958*

##### *Information Privacy Act 2000*

##### *Instruments Act 1958*

Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (this part of the Act is administered by the Minister for Planning)

##### *Interpretation of Legislation Act 1984*

##### *Judgment Debt Recovery Act 1984*

##### *Judicial College of Victoria Act 2001*

##### *Judicial Proceedings Reports Act 1958*

##### *Judicial Remuneration Tribunal Act 1995*

##### *Juries Act 2000*

##### *Jurisdiction of Courts (Cross-Vesting) Act 1987*

##### *Land Acquisition and Compensation Act 1986*

##### *Land Act 1958*

In so far as it relates to the exercise of powers relating to leases and licences under Subdivisions 1 and 2 of Division 9 of Part 1 in respect of:

- land described as Crown allotment 22D, 22A and 21C of section 30, Parish of Melbourne North being the site of the Victorian County Court

Sections 22C to 22E (the remaining provisions are administered by the Minister for Planning, the Minister for Corrections, the Minister for Health, the Minister for Transport and the Minister for Finance)

##### *Land Titles Validation Act 1994*

##### *Legal Aid Act 1978*

##### *Legal Practice Act 1996*

##### *Leo Cussen Institute Act 1972*

##### *Limitation of Actions Act 1958*

##### *Local Government Act 1989*

##### *Sections 44–46, 48–49*

Section 243 in so far as it relates to municipal electoral tribunals

Schedule 4 excluding clause 1(b)  
 (The Act is otherwise administered by the Minister for Local Government and the Minister for Transport)  
*Magistrates' Court Act 1989*  
*Maintenance Act 1965*  
*Marriage Act 1958*  
*Penalty Interest Rates Act 1983*  
*Perpetuities and Accumulations Act 1968*  
*Property Law Act 1958*  
 Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (this part of the Act is administered by the Minister for Planning)  
*Public Notaries Act 2001*  
*Public Prosecutions Act 1994*  
*Religious Successory and Charitable Trusts Act 1958*  
*Residential Tenancies Act 1997*  
 Sections 446–448, 452, 472, 473, 479 and 485  
 (The Act is otherwise administered by the Minister for Consumer Affairs, the Minister for Housing and the Minister for Planning)  
*Securities Industry Act 1975*  
*Securities Industry (Application of Laws) Act 1981*  
*Senate Elections Act 1958*  
*Sentencing Act 1991*  
 Part 3 (Subdivision 4 of Division 2 and Division 6) of the Act are jointly administered by the Attorney-General and the Minister for Community Services)  
 (Division 3 of Part 3 of the Act is jointly administered by the Attorney-General and the Minister for Corrections)  
*Settled Land Act 1958*  
*Small Claims Act 1973*  
*St Andrew's Foundation Act 1997*  
*Status of Children Act 1974*  
*Summary Offences Act 1966*  
*Supreme Court Act 1986*  
*Surveillance Devices Act 1999*  
*Telecommunications (Interception) (State Provisions) Act 1988*  
*Transfer of Land Act 1958*  
 Except in so far as it relates to the management of the Office of the Registrar-General and the Land Titles Office (this part of the Act is administered by the Minister for Planning)  
*Unauthorised Documents Act 1958*  
*Vagrancy Act 1966*  
*Valuation of Land Act 1960*  
 Divisions 1 and 2 of Part III, Divisions 4 and 5 of Part III where they relate to the determination of appeals by the Victorian Civil and Administrative Tribunal and Part IV in so far as it relates to the administration of the above provisions (the remaining provisions are administered by the Minister for Planning)  
*Victims of Crime Assistance Act 1996*  
*Victoria Law Foundation Act 1978*  
*Victoria Park Land Act 1992*  
*Victorian Civil and Administrative Tribunal Act 1998*  
*Victorian Law Reform Commission Act 2000*  
*Vital State Projects Act 1976*  
 Sections 5–16 (the remaining provisions are administered by the Premier)  
*Warehousemen's Liens Act 1958*

*Western Metropolitan Market Act 1938*  
*Whistleblowers Protection Act 2001*  
*Wills Act 1997*  
*Wrongs Act 1958*

## Minister for Consumer Affairs

*Associations Incorporation Act 1981*  
*Auction Sales Act 1958*  
*Business Licensing Authority Act 1998*  
*Business Names Act 1962*  
*Carriers and Innkeepers Act 1958*  
*Chattel Securities Act 1987*  
 Except Part 3 (this part is administered by the Minister for Transport)  
*Collusive Practices Act 1965*  
*Companies (Administration) Act 1981*  
*Consumer Credit (Victoria) Act 1995*  
*Cooperatives Act 1996*  
*Credit Act 1984*  
*Credit (Administration) Act 1984*  
*Credit Reporting Act 1978*  
*Defence Reserves Re-employment Act 1995*  
*Discharged Servicemen's Preference Act 1943*  
*Disposal of Uncollected Goods Act 1961*  
*Domestic Building Contracts Act 1995*  
 Excluding Part 5 (these provisions are administered by the Attorney-General)  
*Estate Agents Act 1980*  
*Fair Trading Act 1999*  
*Frustrated Contracts Act 1959*  
*Fuel Prices Regulation Act 1981*  
*Fundraising Appeals Act 1998*  
*Funerals (Pre-paid Money) Act 1993*  
*Goods Act 1958*  
*Hire-Purchase Act 1959*  
 Repealed 1 April 1998, in respect of hire-purchase agreements; except for section 24 and 25, applicable to hire purchase agreements for farm machinery until 30 June 2003  
*House Contracts Guarantee Act 1987*  
*Introduction Agents Act 1997*  
*Landlord and Tenant Act 1958*  
*Liquor Control Reform Act 1998*  
*Marketable Securities Act 1970*  
*Motor Car Traders Act 1986*  
*Partnership Act 1958*  
*Patriotic Funds Act 1958*  
*Petroleum Products (Terminal Gate Pricing) Act 2000*  
*Petroleum Retail Selling Sites Act 1981*  
*Prostitution Control Act 1994*  
*Residential Tenancies Act 1997*  
 Sections 24, 25, 27, 32, 33, 45–48, 74–77, 82, 90, 91, 102, 103, 104(1), 104(4), 104(5), 105(2), 105(3), 124, 128, 130–134, 141–212, 214, 215, 230, 232–234, 241, 277, 291–333, 335–341, 343–366, 373–376, 385, 388, 390, 395–398, 400–439, 486–504, 506–511  
 Section 66(1) jointly with the Minister for Housing  
 (The Act is otherwise administered by the Attorney-General, the Minister for Housing and the Minister for Planning)

## Appendix B: Legislative responsibilities continued

*Retirement Villages Act 1986*  
*Sale of Goods (Vienna Convention) Act 1987*  
*Sale of Land Act 1962*  
*Sea-Carriage Documents Act 1998*  
*Second-hand Dealers and Pawnbrokers Act 1989*  
*Subdivision Act 1988*  
Part 5; section 38; and section 43  
(in so far as it relates to Part 5 and section 38)  
(The Act is otherwise administered by the Minister for Planning)  
*Trade Measurement Act 1995*  
*Trade Measurement (Administration) Act 1995*  
*Travel Agents Act 1986*  
*Trustee Act 1958*  
*Trustee Companies Act 1984*  
(this Act is jointly administered with the Treasurer)

### Minister for Corrections

*Corrections Act 1986*  
*International Transfer of Prisoners (Victoria) Act 1998*  
*Land Act 1958*  
In so far as it relates to the exercise of powers relating to leases and licences under Subdivision 1 of Division 9 of Part 1 in respect of:  
– land identified in Certified Plan 114680-A dated 8 February 1995  
– land shown as Allotment 8B, section 13 on Certified Plan 116685 and Allotment 4A, section 17 on Certified Plan 116944 lodged in the Central Plan Office in the Department of Sustainability and Environment  
– land shown as hatched on the plan numbered LEGL/95-80 lodged in the Central Plan Office of the Department of Sustainability and Environment  
(The Act is otherwise administered by the Minister for Planning, the Attorney-General, the Minister for Finance and the Minister for Health)  
*Parole Orders (Transfer) Act 1983*  
*Prisoners (Interstate Transfer) Act 1983*  
*Sentencing Act 1991*  
Division 3 of Part 3 of the Act is jointly administered by the Attorney-General and the Minister for Corrections  
(The Act is otherwise administered by the Attorney-General and the Minister for Community Services)

### Minister for Gaming

*Casino Control Act 1991*  
Except sections 128H to 128L (administered by the Minister for Planning)  
Section 128K(2) (administered by the Minister for Finance)  
*Casino (Management Agreement) Act 1993*  
*Club Keno Act 1993*  
*Gaming and Betting Act 1994*  
Part 5, Division 2 of Part 6 and Part 15 are jointly administered with the Minister for Racing  
(The Act is otherwise administered by the Minister for Gaming)

*Gaming Machine Control Act 1991*  
Except section 138 (administered by the Minister for Victorian Communities)  
*Gaming No 2 Act 1997*  
Except sections 5(1)(i), 6, 112(d) and 123 (jointly administered with the Minister for Racing)  
*Interactive Gaming (Player Protection) Act 1999*  
*Lotteries, Gaming and Betting Act 1966*  
(jointly administered with the Minister for Racing)  
*Public Lotteries Act 2000*  
*TT-Line Gaming Act 1993*  
Section 11 jointly and separately administered with the Treasurer  
(The Act is otherwise administered by the Minister for Gaming)

### Minister for Police and Emergency Services

*Control of Weapons Act 1990*  
*Country Fire Authority Act 1958*  
*Emergency Management Act 1986*  
*Firearms Act 1996*  
*Metropolitan Fire Brigades Act 1958*  
*National Crime Authority (State Provisions) Act 1984*  
*Police Assistance Compensation Act 1968*  
*Police Regulation Act 1958*  
Excluding Part III (these Provisions are administered by the Minister for WorkCover)  
*Private Agents Act 1966*  
*Seamen's Act 1958*  
*Unlawful Assemblies and Processions Act 1958*  
*Victoria State Emergency Service Act 1987*  
*Witness Protection Act 1991*

### Minister for Racing

*Gaming and Betting Act 1994*  
Part 5, Division 2 of Part 6 and Part 15 (jointly administered with the Minister for Gaming)  
(The Act is otherwise administered by the Minister for Gaming)  
*Gaming No 2 Act 1997*  
Sections 5(1)(i), 6, 112(d) and 123 (these sections are jointly administered with the Minister for Gaming)  
(The Act is otherwise administered by the Minister for Gaming)  
*Lotteries Gaming and Betting Act 1966*  
(jointly administered with the Minister for Gaming)  
*Racing Act 1958*  
*The Victoria Racing Club Act 1871*

**B2: Legislation enacted in 2002–03  
(passed between 1 July 2002 and 30 June  
2003)**

**Attorney-General**

*Attorney-General and Solicitor-General (Amendment)  
Act 2003*  
*Courts Legislation (Amendment) Act 2003*  
*Crimes (Family Violence) Act 2003*  
*Crimes (Property Damage and Computer Offences  
Act 2003*  
*Electoral Act 2002*  
*Juries (Amendment) Act 2002*  
*Legal Practice (Validations) Act 2003*  
*Limitation of Actions (Amendment) Act 2002*  
*Sentencing (Amendment) Act 2003*  
*Summary Offences (Offensive Behaviour) Act 2003*  
*Terrorism (Commonwealth Powers) Act 2003*  
*Terrorism (Community Protection) Act 2003*  
*Victims of Crime Assistance (Miscellaneous  
Amendment) Act 2003*  
*Wrongs and Limitation of Actions Acts (Insurance  
Reform) Act 2003*

**Minister for Police and Emergency Services**

*Australian Crime Commission (State Provisions) Act 2003*  
*Control of Weapons and Firearms Acts (Search Powers)  
Act 2003*  
*Country Fire Authority (Volunteer Protection and  
Community Safety) Act 2003*  
*Firearms (Trafficking and Handgun Control) Act 2003*

**Minister for Corrections**

*Corrections (Amendment) Act 2003*  
*Corrections and Sentencing Acts (Home Detention)  
Act 2003*

**Minister for Consumer Affairs**

*Business Licensing Legislation (Amendment) Act 2003*  
*Estate Agents and Sale of Land Acts (Amendment)  
Act 2003*  
*Fair Trading (Amendment) Act 2003*  
*Utility Meters (Metrological Controls) Act 2002*  
(transferred to the Minister for Consumer Affairs from the  
Minister for Small Business after the 2002 election)

# Appendix C: Statement of Compliance with the *Building Act 1993*

The Minister for Finance guidelines, pursuant to section 220 of the *Building Act 1993*, promote better standards for buildings owned by the Crown and Public Authorities and require entities to report on achievements.

The Department of Justice controls and manages 80 properties on behalf of the Crown that are utilised for legal, court, prison, and emergency services. Other corporate entities within the Justice Portfolio, such as the Country Fire Authority, the Metropolitan Fire and Emergency Services Board, and Victoria Police will report separately on building compliance issues.

The following comments are made in relation to the Minister's guidelines.

## New buildings conforming to standards

For the 2002–03 financial year, all works carried out on buildings controlled by the Department of Justice were required to be conducted in accordance with the provisions of the *Building Act 1993*, relevant building regulations, and other statutory requirements. The Department has established appropriate mechanisms to ensure compliance, including the issue of building permits and occupancy certificates, and inspection of works. Agencies of the Department of Justice are exempt from lodging plans with local councils.

The tables below provide the relevant project details.

### Major works commenced throughout the 2002–03 financial year

Building works	Forecast project cost \$'000	Building permit issued or works certified
Courts upgrade	2,600	Yes
Beechworth low security prison	20,167	Yes
10-year cell safety project	50,000	Yes

### Major works in progress and commenced prior to the 2002–03 financial year

Building works	Forecast project cost \$'000	Building permit issued or works certified
Mildura Courthouse	16,520	Yes
Warrnambool Courthouse	15,200	Yes
Langi Kal Kal Prison – redevelopment	3,256	Yes
Ararat Prison – redevelopment	8,049	Yes

### Major works completed throughout the 2002–03 financial year

Building works	Project cost \$'000	Occupancy/final inspection certified issued for works
Barwon Prison 75-bed expansion – prison expansion program	11,900	Yes
Tarrengower Prison sewerage system replacement	327	Yes
Dame Phyllis Frost Centre 50-bed expansion – prison expansion program	11,000	Yes
Loddon Prison 70-bed expansion – prison expansion program	9,000	Yes
Heidelberg Courthouse construction	4,843	Yes
Victoria State Emergency Service – headquarters construction	6,865	Yes
Dhurringile Prison relocatable – cellular accommodation	5,500	Yes
Barwon relocatables – cellular accommodation	10,200	Yes

### **10-year liability cap**

All departmental building works carried out and which were subject to building permits or certifications have been issued with a certificate of occupancy or final inspection, so invoking the 10-year liability cap. The major departmental building works are shown in the tables. There have been no exemptions from invoking the 10-year liability cap. Where there is an exemption from invoking the 10-year liability cap, it is identified as part of contract documentation for the works.

The 10-year liability cap is invoked upon the issue of a certificate of occupancy. This allows a building owner to make a claim against any practitioner associated with the building's construction up to 10 years from the occupancy certificate date.

### **Buildings to be maintained in a safe and serviceable condition**

The mechanisms in place within the Department of Justice to ensure that buildings are maintained in a safe and serviceable condition include:

- a rolling program of building inspections and audits;
- the identification of works and their priority;
- the development of a departmental works program forming part of the overall departmental investment strategy;
- essential services maintenance plans; and
- a program to monitor and review effectiveness of these mechanisms.

These mechanisms are encompassed within the Department's risk management strategy for land and buildings, which addresses the identification and management of condition deficiencies, standards compliance and risk mitigation within an overall departmental planning framework.

All agencies, with the exception of courts, provide for these mechanisms through departmental service providers' contracted requirements. All works carried out on court facilities are managed by the individual jurisdictions and there is a requirement for the Chief Executive Officer for each court to ensure that appropriate mechanisms are in place and implemented in accordance with the *Building Act 1993*.

### **Existing buildings conforming to standards**

All departmental buildings comply with Minister for Finance guidelines. The mechanisms established by the Department are intended to maintain compliance and the effectiveness of those mechanisms are being continuously monitored.

### **Registered building practitioners**

The Department of Justice requires building practitioners carrying out building works to be registered, and for registration to be maintained throughout the course of the works.

The Department's infrastructure service agreements requires officers providing consultancy services under those agreements, to be registered building practitioners in accordance with requirements of the *Building Act 1993*. All works carried out on court facilities are managed by the individual jurisdictions and there is a requirement for the Chief Executive Officer for each court to ensure that works are carried out in accordance with the *Building Act 1993*.

# Appendix D: People management

## D1: Workforce data

### 2002–03 Annual report statistics

Staffing numbers (FTE)	As at 30 June 2002	As at 30 June 2003
Executive Management * <sup>Y</sup>	40.5	210.7
Justice Operations †	1908.6	2068.5
Corporate Services	134.2	135.6
Knowledge Management	93.9	103.0
Consumer Affairs _	252.6	333.7
Legal and Equity (includes courts, boards and tribunals) §	1836.7	1918.7
<b>Total</b>	<b>4266.5</b>	<b>4770.2</b>

\* Increases due to Machinery of Government changes where the functions of Gaming, including the Office of Gambling Regulation (Department of Treasury and Finance), Racing (Department of Tourism, Sport and The Commonwealth Games) and Department of Innovation, Industry and Regional Development transferred to the Department of Justice. An increase also resulted from the appointment of Regional Aboriginal Justice Advisory Committee Officers.

<sup>Y</sup> Included in the staffing Numbers in Executive Management are 138.2 staff from the Office of Gambling Regulation. This number will also be included in the 2002–03 Victorian Casino and Gaming Annual Report.

† Increase due mainly to the appointment of custodial staff as a result of new permanent accommodation at the Dame Phyllis Frost Centre, Barwon Prison and Loddon Prison.

\_ Due to Machinery of Government changes, Liquor Licensing and Trade Measurement were transferred from the Department of Innovation, Industry and Regional Development to Consumer Affairs Victoria.

§ Increase due to additional Sheriff Officers employed to meet the road safety initiative, as well as the establishment of the Government Legal Services and Terrorism and Multi-jurisdictional Crime Business Units.

Aggregate workforce data (FTE) Employee status	As at 30 June 2002			As at 30 June 2003		
	Male	Female	Total	Male	Female	Total
Ongoing	1858.5	1599.9	3458.4	2045.6	1768.8	3814.4
Fixed term	205.4	242.2	447.6	239.3	319.7	559.0
Casual	65.1	52.8	117.9	66.3	55.5	121.8
Statutory appointments	174.2	68.4	242.6	190.8	84.2	275.0
<b>Total</b>	<b>2303.2</b>	<b>1963.3</b>	<b>4266.5</b>	<b>2542.0</b>	<b>2228.2</b>	<b>4770.2</b>

## D2: Major classifications by gender as at 30 June 2003 (FTE)

Classification	Full-time			Part-time			Casual/sessional			Totals by gender		Grand total
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	
<b>VPS levels</b>												
Public Service 1	167.0	173.0	340.0	2.0	12.8	14.8	4.5	4.5	9.0	173.5	190.3	363.8
Public Service 2	392.0	773.0	1165.0	9.9	91.3	101.2	17.0	17.0	34.0	418.9	881.3	1300.2
Public Service 3	360.0	366.0	726.0	3.7	42.1	45.8	4.9	10.7	15.6	368.6	418.8	787.4
Public Service 4	276.0	262.0	538.0	2.5	29.7	32.2	0.3	0.0	0.3	278.8	291.7	570.5
Public Service 5	200.0	76.0	276.0	4.7	8.9	13.6	1.0	0.0	1.0	205.7	84.9	290.6
<b>Total</b>	<b>1395.0</b>	<b>1650.0</b>	<b>3045.0</b>	<b>22.8</b>	<b>184.8</b>	<b>207.6</b>	<b>27.7</b>	<b>32.2</b>	<b>59.9</b>	<b>1445.5</b>	<b>1867.0</b>	<b>3312.5</b>
<b>Custodial officers</b>												
Custodial officer COG5a	9.0	0.0	9.0	0.0	0.0	0.0	0.0	0.0	0.0	9.0	0.0	9.0
Custodial officer COG4	23.0	1.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	23.0	1.0	24.0
Custodial officer COG3	82.0	10.0	92.0	0.0	0.0	0.0	0.0	0.0	0.0	82.0	10.0	92.0
Custodial officer COG2b	236.0	40.0	276.0	1.0	0.6	1.6	0.5	0.0	0.5	237.5	40.6	278.1
Custodial officer COG2a	446.0	159.0	605.0	3.2	2.3	5.5	36.0	20.0	56.0	485.2	181.3	666.5
Custodial officer COG1	11.0	13.0	24.0	0.0	0.0	0.0	0.0	0.0	0.0	11.0	13.0	24.0
<b>Total</b>	<b>807.0</b>	<b>223.0</b>	<b>1030.0</b>	<b>4.2</b>	<b>2.9</b>	<b>7.1</b>	<b>36.5</b>	<b>20.0</b>	<b>56.5</b>	<b>847.7</b>	<b>245.9</b>	<b>1093.6</b>
<b>Staff not part of five-level structure</b>												
Other classifications †	231.0	94.0	325.0	2.2	5.9	8.1	15.6	15.4	31.0	248.8	115.3	364.1
<b>Grand total</b>	<b>2433.0</b>	<b>1967.0</b>	<b>4400.0</b>	<b>29.2</b>	<b>193.6</b>	<b>222.8</b>	<b>79.8</b>	<b>67.6</b>	<b>147.4</b>	<b>2542.0</b>	<b>2228.2</b>	<b>4770.2</b>

† Other classifications includes executive officers, statutory appointees and other ongoing and fixed term staff who are not part of the five level structure.

### D3: Reconciliation of executive officers

The number of executives in the report of operations is based on the number of executive positions that are occupied at the end of the financial year. Note 17 (remuneration of executives) to the Financial Statements lists the actual number and remuneration paid to executive officers over the course of the reporting period. The note to the Financial Statements does not distinguish between executive levels, nor does it disclose separations, vacant positions, or the Accountable Officer. Separations are those executives who have left the Department during the financial year.

Disclosures in the report of operations contains information on:

- executive classifications;
- gender composition of the classifications; and
- variances between the current and previous reporting period.

The reconciliation of executive numbers between the report of operations and Note 17 (remuneration of executives) to the Financial Statements is to improve the transparency and completeness of the information that is disclosed.

For executive numbers across the Victorian Public Service, the Department has included executive numbers for all portfolio authorities.

#### Executive officers' definition

An executive officer (EO) for a Government department is a person employed as an executive under Part 3, *Division 5 of the Public Sector Management and Employment Act 1998*.

Additionally, the total group of executives must be classified into two distinct categories based on the following definitions:

- 'Ongoing' executives are executives who are responsible for functions or outputs that are expected to be ongoing at the reporting date; and
- 'Special Projects' executives are executives who are employed for a specific project. These projects are generally for a fixed period of time and relate to a specific government priority.

For portfolio authorities, an executive officer is a person employed as an executive officer at an annual remuneration rate not less than an executive officer employed by a department.

The definition of an executive officer does not include Governor-in-Council appointments as statutory office holders.

#### Portfolio authorities' definition

A portfolio authority is defined as a public authority under the *Public Sector Management and Employment Act 1998*.

The following tables disclose the executive officers of the Department and its portfolio authorities for 30 June 2003:

- **Table 1** discloses the number of executive officers (EO) in the categories of 'Ongoing' and 'Special Projects' and the total numbers of EOs for the Department;
- **Table 2** provides a breakdown of EOs according to the gender of male and female for the categories of 'Ongoing' and 'Special Projects';
- **Table 3** provides a reconciliation of executive numbers between the report of operations and Note 17 (remuneration of executives) to the Financial Statements; and
- **Table 4** provides the number of executive officer roles for the Justice Portfolio.

Table 1 to 4 also discloses the variations, denoted by 'Var' between the current and previous reporting periods and current vacancies.

Table 1: Number of executive officer roles classified into 'Ongoing' and 'Special Projects'

Classification	All		Ongoing		Special Projects	
	No.	Var	No.	Var	No.	Var
EO-1	2	0	2	0	0	0
EO-2	19	2	19	2	0	0
EO-3	43	10	42	9	1	1
Total	64*	12	63	11	1	1

\* Includes three vacancies as at 30 June 2003 and nine roles (8 EO-3 and 1 EO-2), which transferred to the Department of Justice as a result of Machinery of Government changes effective 31 December 2002.

Table 2: Breakdown of executive officers employed at 30 June 2003 into gender for 'Ongoing' and 'Special Projects'

Classification	Ongoing						Special Projects					
	Male		Female		Vacancies		Male		Female		Vacancies	
	No.	Var	No.	Var	No.	Var	No.	Var	No.	Var	No.	
EO-1	1	-1	1	1	0	0	0	0	0	0	0	0
EO-2	18	5	1	0	0	-3	0	0	0	0	0	0
EO-3	26	6	13	4	3	-1	0	0	1	1	0	0
Total	45	10	15	5	3	-4	0	0	1	1	0	0

Table 3: Reconciliation of executive officer roles

	2003	2002
Total number of executives listed in the executive officers' remuneration note to the Financial Statements (note 17)	45	42
<i>Plus</i> Total number of executives with remuneration less than \$100,000 Accountable Officer (Secretary)	18 1	7 1
<i>Less</i> Separations	-3	-5
<b>Total executive officers employed at 30 June</b>	<b>61</b>	<b>45</b>
<i>Add</i> Vacancies at 30 June (table 2)	3	7
<b>Total executive officer roles at 30 June</b>	<b>64</b>	<b>52</b>

## Appendix D: People management continued

Table 4: Number of executive officer roles for the Justice Portfolio

	Total Roles Occupied		Vacancies		Male		Female	
	No.	Var	No.	Var	No.	Var	No.	Var
<b>Portfolio agencies</b>								
Office of Public Prosecutions	2	0	0	0	2	0	0	0
Office of the Chief Commissioner of Police	12	0	1	1	10	0	2	0
<b>Total</b>	14	0	1	1	12	0	2	0
<b>Portfolio authorities</b>								
Victoria Legal Aid	5	-2	0	0	4	0	1	-2
Director, Victoria State Emergency Service	1	0	0	0	1	0	0	0
Victorian Institute of Forensic Medicine	2	0	0	0	2	0	0	0
Country Fire Authority	22	7	1	0	21	7	1	0
Emergency Communications Victoria*	5	5	0	0	4	4	1	1
Greyhound Racing Victoria**	3	2	0	0	3	2	0	0
Harness Racing Victoria**	5	0	0	0	4	0	1	0
Legal Practice Board	2	0	0	0	0	-1	2	1
Metropolitan Fire and Emergency Services Board	30	1	2	2	26	0	4	1
<b>Total</b>	75	13	3	2	65	12	10	1

\* Organisation newly created in 2002–03.

\*\* Previously reported under Department of Tourism, Sport and The Commonwealth Games.

#### D4: Merit and equity programs

##### Total number of decisions to exempt vacancies from advertisement

There were 134 exemptions from advertisement during 2002–03. One of these exemptions related to the appointment of a person from a disadvantaged group.

##### Processes that inform employees who may be affected by decisions as they are made in relation to an exemption

The Department Secretary's decision to exempt a vacancy from advertisement is notified to all staff of the Department through the Department's internal Employment Bulletin. The Employment Bulletin has a section specifically provided for exemptions notification and includes the following statement: The Secretary to the Department of Justice has certified that there has been no breach of merit and equity and has exempted the vacancy from advertisement. Also published are instructions about the lodgement of grievances against an exemption.

##### Processes that ensure consistency of decision making

To ensure that decisions to exempt a vacancy from advertisement are consistent, all requests are first considered by the General Manager, Human Resources before being forwarded to the Department Secretary for consideration.

##### Reviewing personal grievances

In the 2002–03 reporting year, the total number of grievances was 25. The following table shows the number of grievances by outcome.

Outcome	No.
Ineligible	4
Conciliated/mediated	4
Withdrawn	6
Heard: upheld	4
Heard: denied	2
Ongoing*	5
<b>Total</b>	<b>25</b>
Male	17
Female	14
<b>Total#</b>	<b>31</b>

\* Includes three identical grievances which have been counted as one in the number of grievances by outcome.

# Three identical grievances involved nine staff.

##### Koori recruitment and career development strategy

With the introduction of Wur-cum barra – the Victorian Government's strategy for creating employment opportunities in the Victorian Public Service (VPS) for Indigenous people – it was important that the Department of Justice continued the work initiated in the previous year under the banner of the Koori Recruitment and Career Development Strategy (KRCDS).

Programs which continued include:

- the Koori scholarship scheme;
- the Koori staff newsletter;
- a Koori staff support network;
- an internal website focusing on Indigenous initiatives which all Department of Justice staff can access; and
- a Koori staff mentoring program.

In addition to these initiatives, the Department launched a revamped Cross Cultural Awareness Training Program. This program was developed in conjunction with representatives of the Victorian Indigenous community to ensure the program addressed their specific needs as well as those of the Department.

The Department also launched its Identified Positions Policy. Identified Indigenous Positions within the Justice Portfolio help ensure the effective development and delivery of policies and programs affecting Indigenous people. It provides an important source of recruitment of Indigenous employees with appropriate skills and knowledge for these positions.

The outstanding work being carried out under the KRCDS was recognised when the Department accepted an 'Excellence and Leadership in Workforce Diversity' Award as an employer of Indigenous Australians.

##### Anti-discrimination policy

A specific anti-discrimination policy has been developed this year. It confirms the Department's commitment to providing a workplace free from unlawful discrimination. Prior to its introduction, the Department had a series of policies which addressed specific needs, such as reasonable adjustment for people with disabilities or racial harassment prevention. Reasonable adjustment involves a willingness to examine physical and organisational barriers which may prevent the employment or advancement of people with disabilities. Such policies will continue, and support the overall anti-discrimination policy.

### Online diversity and sexual harassment training

The Department continues to offer the training program 'Work Effectively with Diversity'. This year, Swinburne University adapted the content developed by the Department into an interactive web-based format which allows staff from all over Victoria to access training, and complete the module during their own time from home. In addition to the diversity content, the module now also contains comprehensive material on sexual harassment awareness.

This program is offered in addition to other equity awareness programs, including induction programs, which all include equity and bullying awareness components, Contact Officer training and Vietnamese Awareness. The Vietnamese Awareness Program aims to provide participants with the knowledge to recognise and value individual differences of Vietnamese Australians and their response to the Victorian justice system.

### Senior women leaders in Justice scholarship program

The scholarship program was launched in September 2002 and aims to award high potential women with a professional development scholarship to help take their career to the next stage. Currently, there are five recipients of the scholarship. The program includes participation in assessment activities, production of development plans, action learning projects, being matched with a mentor and/or learning coach, leadership and management courses as well as tailored study. It is anticipated that this program will see an increase in the number of women at VPS5 and Executive levels within the Department.

### Career research project

The career research project was initiated to look at issues relating to career development within the Department of Justice; for example, the need to address the low numbers of women in senior departmental roles.

A survey study was conducted late in 2002 by the Mt Eliza Business School with methodologies including focus groups, a questionnaire, interviews with senior executives and a literature review. The results will be released and considered in the upcoming year.

### Youth employment scheme

The Department of Justice coordinates the placement of approximately 130 youth trainees across the Justice Portfolio each year. In 2002-03, seven Koori trainees and five trainees with a disability were placed in Business Units throughout the Justice Portfolio via this scheme as well as 20 from educationally disadvantaged backgrounds.

### D5: Employee relations statement 2002-03

During 2002-03, there were no industrial relations incidents that resulted in lost time.

The Department has worked with the Office for Workforce Development (Department of Premier and Cabinet) on the various cross-departmental working parties required to implement the Career Structure and Work Organisation Review, required by Clause 11, the Victorian Public Service (Non-executive Staff) Agreement 2001.

# Appendix E: Business management

## E1: Financial and other information

### Summary of significant changes in financial position

There has been no significant change in the financial position of the Department for 2002–03.

### Major changes or factors affecting the achievement of objectives

There have been no major changes or factors affecting the achievement of operational objectives for the year, or which have impacted on the 2002–03 business plan, outputs and key performance data.

### Events subsequent to balance date

No events have occurred subsequent to 30 June 2003 that would require adjustments to, or disclosure in, the Financial Statements.

### Summary of Financial Performance

	Actual 2002–03 \$'000	Actual 2001–02 \$'000	Actual 2000–01 \$'000	Actual 1999–00 \$'000	Actual 1998–99 \$'000
Total revenues	2,126,883	1,883,071	1,768,247	699,928	608,160
Total expenses	2,076,121	1,848,725	1,722,125	666,267	566,745
Net result for the reporting period	50,762	34,346	46,122	36,967	41,415
Total changes in equity	106,293	104,095	46,125	36,967	42,648

## E2: Implementation of National Competition Policy (NCP) – scheduled legislative reviews

Legislation	Progress achieved
Attorney-General's Portfolio	No items subject to legislative review.
<b>Consumer Affairs Portfolio</b>	
<i>Auction Sales Act 1958</i>	Act repealed effective 1 January 2003.  Record-keeping requirements for livestock auctioneers are now imposed under the Livestock Disease Control Regulations 2001, administered by the Department of Primary Industry.
<i>Consumer Credit (Victoria) Act 1995</i>	Response to national review agreed by Ministerial Council on Consumer Affairs. Amendments to the Uniform Consumer Credit Code under development.
<i>Estate Agents Act 1980</i>	Amendments incorporated into <i>Estate Agents and Sale of Land Acts (Amendment) Act 2003</i> (not yet effective at time of writing).
<i>Trade Measurement Act 1995</i>	National review led by Queensland. A public benefit test process regarding the restriction on the sale of non-prepacked meat is proceeding.
<i>Travel Agents Act 1986</i>	National review. Response agreed by Ministerial Council. Minor amendments to legislation and subordinate legislation being prepared (repeal of Crown exemptions; increase of turnover threshold for coverage).
<b>Police and Emergency Services Portfolio</b>	
<i>Private Agents Act 1966</i>	The review has been completed and Government is looking at the legislation with a view to enhancing the industry oversight.
Corrections Portfolio	No items subject to legislative review.
<b>Gaming Portfolio</b>	
<i>Club Keno Act 1993</i>	The Office of Gaming and Racing provided the response for the Government for the review of the <i>Club Keno Act 1993</i> . This completes the Victorian Government's reviews of gaming legislation.
<b>Racing Portfolio</b>	No items subject to legislative review.

## Appendix E: Business management continued

### E3: Application of Competitive Neutrality (CN)

Application of Competitive Neutrality principles to Victorian Government Solicitor's Office (VGSO)

Significant Government	Status of CN business activity applied
<b>Attorney-General's Portfolio</b> Victorian Government Solicitor's Office (VGSO)	The VGSO is required to meet its operating expenditure by charging fees for services. These fees are fixed in accordance with Competitive Neutrality: A Statement of Victorian Government Policy.
Consumer Affairs Portfolio	Nil
Police and Emergency Services Portfolio	Nil
Corrections Portfolio	Nil
Gaming Portfolio	Nil
Racing portfolio	Nil

Agencies associated with the Department will report on the application of CN principles with respect to their particular agency in their Annual Report.

### E4: Chief executive officer, senior office holders and Audit Committee as at 30 June 2003

Chief Executive Officer

Ms Penny Armytage

Senior office holders

The senior office holders within the Department are the Secretary, four Deputy Secretaries, the Chief Knowledge Officer and the Assistant Secretary Portfolio Planning who comprise the Department's Executive Committee. The Committee as at 30 June 2003 were:

Ms Penny Armytage	Secretary
Mr Alan Clayton	Deputy Secretary, Justice Operations
Ms Elizabeth Eldridge	Deputy Secretary, Legal and Equity
Dr David Cousins	Deputy Secretary, Consumer Affairs
Mr John Charleson	Deputy Secretary, Corporate Services
Mr Ross Kennedy	Director of Gaming and Racing
Mr Philip Hind	Chief Knowledge Officer
Mr Robert Eldridge	Assistant Secretary, Portfolio Planning

Audit Committee

Mr Frank King	Chair
Mr Neil Faulkner	Partner KPMG (To December 2002)
Ms Jane Harvey	(From January 2003)
Mr Alan Clayton	Deputy Secretary, Justice Operations
Mr David Cousins	Deputy Secretary, Consumer Affairs
Mr John Charleson	Deputy Secretary, Corporate Services
Ms Elizabeth Eldridge	Deputy Secretary, Legal and Equity

Regular attendees

Mr Des Hill	General Manager, Finance
Mr Ray Turnley	Manager, Internal Audit/Secretary, Audit Committee

### Function, role and duties of the Audit Committee – Audit Committee Charter

The role and responsibilities of the Audit Committee and its members are set out in an Audit Committee Charter adopted by the Department in July 2001.

The Audit Committee advises the Accountable Officer to assist in the effective discharge of responsibilities prescribed in the *Financial Management Act 1994* and *Audit Act 1994* and other relevant legislation. The Committee reports on its findings directly to the Accountable Officer, particularly when issues are identified that could present a material risk or threat to the agency.

#### *Audit Committee duties*

The Committee's key duty in discharging its responsibilities is to provide reasonable assurance to the Accountable Officer that the agency's core business goals and objectives are being achieved in an efficient and economical manner, within an appropriate internal control and risk management framework.

The Audit Committee's core duties are to:

- assess and contribute to audit planning processes regarding risks and threats to the agency, taking into account the financial and operational environment in which it operates and its performance management framework;
- assess and enhance the agency's corporate governance, including its systems of internal control and the internal audit function;
- facilitate the practical discharge of the audit function, particularly in respect of planning, monitoring and reporting; and
- oversee and appraise the agency's financial and operational reporting processes through the internal audit function.

#### *Audit Committee responsibilities*

The Committee's other key responsibilities, through the internal and external audit functions, are to assist the Accountable Officer discharge responsibilities of 'due care and diligence' in relation to:

- the delivery of agency outputs efficiently, effectively and economically to obtain optimal value for money;
- optimising agency performance in terms of quality, quantity, timeliness, cost and where appropriate, location;
- reporting agency financial and operational information in a relevant, reliable and timely manner; and
- ensuring the integrity and consistency of the agency's corporate culture relative to ethical conduct and probity, especially its tendering, contracting and other procurement processes.

### **E5: Disclosure of major contract compliance**

The Department has disclosed all contracts greater than \$10 million which it entered into in 2002–03.

The disclosed contracts can be viewed on [www.tenders.vic.gov.au](http://www.tenders.vic.gov.au)

## Appendix E: Business management continued

### E6: Summary of consultancies

#### Consultancies with an approved value greater than \$100,000

Business Unit	Contract title	Consultant	Original contract date	Total approved amount	Actual completion date	Expenditure 2002-03	Future commitments	Selection process
Enforcement Management	Legal Services	Blake Dawson Waldron	21/08/01	\$100,000	N/A	\$61,864	\$3,548	Quotes
Portfolio Planning	Survey on Perception of justice	NCS Pearson Pty Ltd	22/03/02	\$211,840	N/A	\$83,986	\$105,336	Public Tender
Victorian County Court Project	Victorian County Court Project – Legal Adviser	Minter Ellison Lawyers	31/10/97	\$686,184	N/A	\$10,615	\$11,225	Panel Contract
Justice Policy	Women's and Cultural Diversity Inventory Project	Success Works Pty Ltd	31/10/02	\$110,000	N/A	\$25,806	\$84,194	Selective Tender
Justice Policy	Prisoner Transport Financial Advisory	Deloitte	14/03/02	\$213,099	31/01/03	\$217,350	\$0	Selective Tender
Justice Policy	Prisoner Transport Legal Advisory	Maddock Lonie & Chisholm	14/03/02	\$111,750	N/A	\$57,324	\$0	Selective Tender
Court Services	Operational review of Supreme Court, County Court and Tribunals	Smart Consulting & Research	20/06/02	\$101,000	01/12/02	\$77,000	\$0	Selective Tender
Court Services	Justice Statement and Courts Strategic Directions	Bearing Point Aust	31/05/02	\$636,669	30/06/03	\$328,782	\$0	Selective Tender
Court Services	Court Diversion Program Evaluation	Turning Point Drug and Alcohol Centre Inc	01/07/02	\$446,000	N/A	\$133,800	\$312,200	Public Tender
OCSC	Evaluation of Bridging the Gap Initiative	Melbourne Enterprise International	01/12/00	\$206,250	N/A	\$0	\$82,500	Selective Tender
BEST	Legal Advice on Mobile Data Network Project	Blake Dawson Waldron	04/02/98	\$979,754	25/06/03	\$589,095	\$0	Panel Contract
BEST	Financial and Commercial Consultancy – MDN RFP	Pricewaterhouse Coopers	30/11/99	\$850,000	03/09/02	\$52,621	\$0	Selective Tender
BEST	Commercial and Financial Advisory – MMR Project	Macquarie	01/03/03	\$573,000	N/A	\$91,310	\$480,690	Panel Contract
BEST	Commercial and Financial Advisory – EAS Project	Deloitte Touche Tohmatsu	05/02/02	\$384,762	N/A	\$346,566	\$4,696	Panel Contract

#### Consultancies less than \$100,000

Number of engagements approved during 2002-03	32
Total approved amount	\$1,163,041

# Appendix F: Freedom of Information

## **Freedom of Information Act 1982**

### **What is the main aim of the FOI Act?**

Victoria's *Freedom of Information Act 1982 (FOI Act)* gives members of the public the right to apply for access to information held by Ministers, State government departments, local councils, public hospitals, most semi-government agencies and statutory authorities.

### **What documentation does the FOI Act cover?**

The FOI Act allows people to apply for access to all documents held by an agency, irrespective of how the documentation is stored. This includes, but is not limited to, paper and electronic documents.

The two main categories of information normally requested under the FOI Act include individuals asking for their personal documents and documents relating to the activities of Government.

The Department of Justice maintains an extensive filing system. The system is required under various Acts for which each Justice Portfolio Minister is responsible, and based on the functions outlined in this report. Files are separated into the categories of personal or case files, operational and policy files (on legislation or particular aspects of legislation administered by the respective Ministers), files on general operational and administrative responsibilities, and correspondence files. Assistance in determining the categories of documents relevant to a request can be provided by the FOI Manager.

It should be noted that certain documents are destroyed or transferred to the Public Record Office in accordance with the *Public Records Act 1973*.

### **Are documents requested under FOI automatically released?**

In assessing whether it is suitable to release documents, the FOI Manager will consider whether any material requested is exempt from release under the FOI Act.

The FOI Act outlines general categories of information which are exempt. This includes information relating to the personal affairs of third parties, information provided in confidence, information which if released might endanger the lives or physical safety of individuals, cabinet documents, commercial-in-confidence information, and internal working documents, the release of which would be contrary to the public interest, and so on.

### **Who are the decision makers under the FOI Act?**

Decisions are made under the FOI Act by the Secretary of the Department, or in line with arrangements made by the Secretary as required under sections 26 and 51 of the FOI Act.

Decision-making powers and other powers affecting members of the public are found in the legislation administered by the Justice Portfolio Ministers. Acts administered by the Justice Portfolio Ministers are listed in the Appendices.

### **How does an individual lodge a FOI request?**

1. A request must be made in writing and should be addressed to:

FOI Manager  
Department of Justice  
55 St Andrews Place  
Melbourne VIC 3002

Requests can also be lodged online at  
<[www.foi.vic.gov.au](http://www.foi.vic.gov.au)>.

Telephone inquiries can be made on (03) 9651 0520.

2. All FOI requests are subject to a \$20 application fee. This fee may be waived in cases where payment would cause an applicant financial hardship. Where an applicant seeks a waiver of this fee, the request should indicate the grounds on which a waiver is being sought (for example, low income, or holder of Commonwealth Health Care Card). Access charges may also apply once documents have been processed and a decision on access made: for example, 20c per A4 page photocopying charge and a \$20 per hour search and retrieval charge. It should be noted that under certain circumstances, some of these charges can be waived.
3. A FOI request must also be specific enough to allow an agency to identify documents considered relevant to a request. Where the terms of a request are vague, assistance will be provided to applicants to help determine the type of documentation being sought.

### **Where can the general public find out more about FOI?**

To provide more assistance to FOI applicants, the Department of Justice has provided general information about making FOI requests on FOI Online. The FOI Annual Reports, from 1998–99 onwards, are also available on FOI Online, located at <[www.foi.vic.gov.au](http://www.foi.vic.gov.au)>.

Information on FOI and information prepared in accordance with Part II of the FOI Act are also available from the FOI Manager, telephone (03) 9651 0518.

Where can the general public access information about specific areas of responsibility of the Department?

The Department of Justice website <[www.justice.vic.gov.au](http://www.justice.vic.gov.au)> provides information about all area of the Department, including Legal Policy and Court Services, Corrections, Liquor Licensing Victoria, Trade Measurement Victoria, Gaming and Racing, Consumer Affairs Victoria, Police and Emergency Services, Enforcement Management and Freedom of Information.

The Resource Centre in the Office of the Correctional Services Commissioner, on Level 6 at 452 Flinders Street, Melbourne, also maintains a comprehensive collection of publications and other materials about adult corrections and related areas.

Information relating to consumer rights and the services offered by Consumer Affairs Victoria is available at the public counter on Level 2 at 452 Flinders Street, Melbourne.

Members of the general public can also write directly to the Department seeking information on any aspect of its operations. The correspondence can be addressed to either the Secretary of the Department or the director of the relevant business unit. Guidance on the relevant business unit can be taken from the Department's organisation chart contained in the Appendices of this report.

# Appendix G: *Whistleblowers Protection Act 2001*

Disclosures for the period of 1 July 2002 to 30 June 2003

Number and type of disclosures made to the Department	
Improper conduct	4
Number and type of disclosures referred to the Ombudsman for public interest determination – improper conduct	
	2
Number and type of disclosed matters referred to the Department from the Ombudsman	
	2
Number and type of disclosed matters referred to the Ombudsman for investigation	
	2
Number and type of investigations of disclosed matters taken over by the Ombudsman	
	0
Number of requests made to the Ombudsman to investigate matters	
	0
Number and type of disclosed matters the Department has declined to investigate	
	0

## Whistleblowing – reporting serious public wrongdoing

### Statement of Support to Whistleblowers

The Department of Justice is committed to the aims and objectives of the *Whistleblowers Protection Act 2001* (the Act). It does not tolerate improper conduct by its employees, officers or members, nor the taking of reprisals against those who come forward to disclose such conduct.

The Department of Justice recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment.

The Department of Justice will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure. It will also afford natural justice to the person who is the subject of the disclosure.

### Definitions

A whistleblower is someone who makes a disclosure about improper or corrupt conduct, or detrimental action by a public body or public official with the view to the matter being investigated and appropriate action being taken.

Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or safety or to the environment. The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal. A disclosure may be made about improper conduct by a public body or public official.

#### Some examples of improper conduct

A Department of Justice employee sells departmental assets without authority and keeps the proceeds.

A judicial officer takes bribes for favourable decisions.

Prison authorities tolerate security breaches in prisons resulting in harm to prisoners and prison staff.

Corrupt conduct means:

- conduct of any person (whether or not a public official) that adversely affects the honest performance of a public officer's or public body's functions;
- the performance of a public officer's functions dishonestly or with inappropriate partiality;
- conduct of a public officer, former public officer or a public body that amounts to a breach of public trust;
- conduct by a public officer, former public officer or a public body that amounts to the misuse of information or material acquired in the course of the performance of their official functions; or
- a conspiracy or attempt to engage in the above conduct.

#### Some examples of corrupt conduct

A Department of Justice employee takes a bribe or receives a payment other than his or her wages or salary in exchange for the discharge of a public duty.

A Department of Justice employee favours unmeritorious applications for jobs or permits by friends and relatives.

A Department of Justice employee sells confidential information.

Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure.

## Some examples of detrimental action

The Department of Justice refuses a deserved promotion of a person who makes a disclosure.

The Department of Justice transfers or isolates in the workplace or changes the duties of a whistleblower due to the making of a disclosure.

A person threatens, abuses or carries out other forms of harassment directly or indirectly against a whistleblower who has made a disclosure against a Department of Justice employee, his or her family or friends.

The Department of Justice discriminates against the whistleblower or his or her family and associates in subsequent applications for jobs, permits or tenders.

## Purpose of whistleblowing procedures

These procedures establish a system for reporting disclosures of improper conduct or detrimental action by the Department of Justice or its employees. Disclosures may be made by employees or by members of the public. These procedures are designed to complement normal communication channels between supervisors and employees. Employees are encouraged to continue to raise appropriate matters at any time with their supervisors. As an alternative, employees may make a disclosure of improper conduct or detrimental action under the Act in accordance with these procedures.

## Objectives of *Whistleblowers Protection Act 2001*

The *Whistleblowers Protection Act 2001* commenced operation on 1 January 2002. The purpose of the Act is to encourage and facilitate the making of disclosures of improper conduct by public officers and public bodies. The Act provides protection to whistleblowers who make disclosures in accordance with the Act, and establishes a system for the matters disclosed to be investigated and rectifying action to be taken.

## Reporting system and contact persons for the Department of Justice

Disclosures of improper conduct or detrimental action by Department of Justice or its employees may be made to the protected disclosure coordinator or to a protected disclosure officer. Where a person is contemplating making a disclosure and is concerned about approaching the protected disclosure coordinator or a protected disclosure officer in the workplace, he or she can call the relevant officer and request a meeting in a discreet location away from the workplace.

## The protected disclosure coordinator

The protected disclosure coordinator oversees the internal reporting system. He or she will receive and assess all disclosures made under the Act, including all correspondence, phone calls and emails from external whistleblowers, and will report directly to the Secretary of

the Department, Ms Penny Armytage. More details about the role of the protected disclosure coordinator and protected disclosure officers are on page 161.

The protected disclosure coordinator for the Department of Justice is:

Mr Pat O'Grady  
General Manager, Human Resources  
4th Floor, 452 Flinders Street  
Melbourne Victoria 3000  
Phone (03) 9627 7301  
Email: pat.o'grady@justice.vic.gov.au

## Protected disclosure officers

The Department of Justice has seven protected disclosure officers. There is a protected disclosure officer for each portfolio group as well as three further protected disclosure officers for Courts, Victoria State Emergency Service and for CORE – The Public Correctional Enterprise.

The protected disclosure officers are available to all Department of Justice staff and to members of the public as an initial point of contact about whistleblower matters. They will give general advice about making a disclosure under the Act and may receive this disclosure verbally or in writing.

All disclosures will be forwarded to the protected disclosure coordinator for assessment.

The protected disclosure officers for the Department of Justice are:

**Corporate Services**  
Mr Ray Turnley  
Manager, Internal Audit  
Phone (03) 9627 6762  
Email: Ray.turnley@justice.vic.gov.au

**Consumer Affairs Portfolio Group**  
Mr Stephen Devlin  
Manager, Legal Development  
Phone (03) 9627 6105  
Email: Stephen.devlin@justice.vic.gov.au

**Legal and Equity Portfolio Group**  
Ms Catriona Galbraith  
Assistant Director, Criminal Law  
Phone (03) 9651 0575  
Email: catriona.galbraith@justice.vic.gov.au

**Justice Operations Portfolio Group**  
Ms Anna Doganieri  
Senior Policy Officer, Justice Policy  
Phone (03) 9651 6418  
Email: anna.doganieri@justice.vic.gov.au

**Courts**  
Mr John Griffin  
Executive Director of Courts  
Phone (03) 8619 6301  
Email: John.Griffin@justice.vic.gov.au

Corrections Victoria  
 Mr Max Johns  
 General Manager, Review and Ethical Standards  
 Phone (03) 9627 6661  
 Email: Max.Johns@justice.vic.gov.au

Victoria State Emergency Service  
 Mr Bob Spowart  
 Manager, Human Resources  
 Victoria State Emergency Service  
 Phone (03) 9684 6666  
 Email: Bob.Spowart@ses.vic.gov.au

#### Alternative contact person – The Ombudsman

A disclosure about improper conduct or detrimental action by the Department of Justice or its employees may also be made directly to the Ombudsman.

The Ombudsman Victoria  
 Dr Barry Perry  
 Level 22, 459 Collins Street  
 Melbourne Victoria 3000  
 (DX 210174)  
 Internet: www.ombudsman.vic.gov.au  
 Email: ombudvic@ombudsman.vic.gov.au  
 Phone (03) 9613 6222  
 Toll free 1800 806 314

The following table sets out where disclosures about persons other than employees of the Department of Justice should be made. A contact list for the public bodies listed in the table is available. Alternatively, a person wishing to make a disclosure about another public body may call Information Victoria on 1300 366 356 to be referred to the correct contact person. A guide to making a disclosure under the *Whistleblowers Protection Act 2001* entitled 'Making a Disclosure – Blowing the Whistle on Improper Conduct in the Victorian Public Sector' is also available.

Person who is the subject of the disclosure	Person/body to whom the disclosure must be made
Employee of a public body	That public body or the Ombudsman
Member of Parliament (Legislative Assembly)	Speaker of the Legislative Assembly
Member of Parliament (Legislative Council)	President of the Legislative Council
Councillors	The Ombudsman
Chief Commissioner of Police	The Ombudsman or Deputy Ombudsman
Member of the police force	The Ombudsman, Deputy Ombudsman or Chief Commissioner of Police

## Roles and responsibilities

### Protected disclosure coordinator

The protected disclosure coordinator has a central 'clearing-house' role in the internal reporting system. He or she will:

- receive all disclosures forwarded from the protected disclosure officers;
- receive all phone calls, emails and letters from members of the public or employees seeking to make a disclosure;
- impartially assess each disclosure to determine whether it comes under the *Whistleblowers Protection Act 2001* and is a public interest disclosure;
- refer all public interest disclosures to the Ombudsman;
- ensure that matters which do not meet the definition of a public interest disclosure are dealt with appropriately, after consultation with the person who made the allegation or report;
- be responsible for carrying out, or appointing an investigator to carry out, an investigation referred to the public body by the Ombudsman;
- be responsible for overseeing and coordinating an investigation where an investigator has been appointed;
- appoint a welfare manager to support the whistleblower and to protect him or her from any reprisals;
- advise the whistleblower of the progress of an investigation into the disclosed matter;
- establish and manage a confidential filing system;
- collate and publish statistics on disclosures made;
- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and
- liaise with the Secretary of the Department.

### Protected disclosure officers

Protected disclosure officers will:

- be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action;
- make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace;
- receive any disclosure made verbally or in writing (from internal and external whistleblowers);
- commit to writing any disclosure made verbally;
- impartially assess the allegation, in consultation with the protected disclosure coordinator, and advise the person making the disclosure whether the disclosure comes under Part 2 of the *Whistleblowers Protection Act 2001*;
- take all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and
- forward all disclosures and supporting evidence to the protected disclosure coordinator.

## Employees

Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.

All employees of the Department of Justice have an important role to play in supporting those who have made a legitimate disclosure. Employees must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, employees should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

## Investigator

The investigator will be responsible for carrying out an internal investigation into a disclosure where the Ombudsman has referred a matter to the public body. The Department of Justice may appoint a person from within the Department or engage a consultant for that purpose.

## Welfare manager

The welfare manager is responsible for looking after the general welfare of the whistleblower. The welfare manager will:

- examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and seek to foster a supportive work environment;
- inform the whistleblower of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure; and
- discuss with the whistleblower what would be a realistic expectation for the outcome of an investigation of the disclosure.

The Department of Justice will appoint a contractor to provide welfare services.

## Confidentiality

The Department of Justice will take all reasonable steps to protect the identity of the whistleblower. Maintaining confidentiality is crucial in ensuring reprisals are not made against a whistleblower.

The Act requires any person who receives information due to the handling or investigation of a protected disclosure, not to disclose that information except in certain limited circumstances. Disclosure of information in breach of section 22 *Whistleblowers Protection Act 2001* constitutes an offence that is punishable by a maximum fine of 60 penalty units (\$6,000) or six months imprisonment, or both.

The circumstances in which a person may disclose information obtained about a protected disclosure include:

- where exercising the functions of the public body under the Act;
- when making a report or recommendation under the Act;
- when publishing statistics in the annual report of a public body; and
- in criminal proceedings for certain offences in the Act.

However, the Act prohibits the inclusion of particulars in any report or recommendation that is likely to lead to the identification of the whistleblower. The Act also prohibits the identification of the person who is the subject of the disclosure in any particulars included in an annual report.

The Department of Justice will ensure all files, whether paper or electronic, are kept in a secure room and can only be accessed by the protected disclosure coordinator and the investigator. All printed material will be kept in files that are clearly marked as a Whistleblower Protection Act matter, and warn of the criminal penalties that apply to any unauthorised divulging of information concerning a protected disclosure. All electronic files will be produced and stored on a stand-alone computer and be given password protection. Back-up files will be kept on floppy disk. All materials relevant to an investigation, such as tapes from interviews, will also be stored securely with the whistleblower files.

The Department of Justice will not email documents relevant to a whistleblower matter and will ensure all phone calls and meetings are conducted in private.

## Receiving and assessing disclosures

### Has the disclosure been made in accordance with Part 2 of the Act?

Where a disclosure has been received by the protected disclosure officer or by the protected disclosure coordinator, he or she will assess whether the disclosure has been made in accordance with Part 2 of the *Whistleblowers Protection Act 2001* and is, therefore, a protected disclosure.

### Has the disclosure been made to the appropriate person?

For the disclosure to be responded to by the Department of Justice, it must concern an employee, member or officer of the Department of Justice. If the disclosure concerns an employee, officer or member of another public body, the person who has made the disclosure will be advised of the correct person or body to whom the disclosure should be directed. If the disclosure has been made anonymously, it will be referred to the Ombudsman.

### Does the disclosure contain the essential elements of a protected disclosure?

To be a protected disclosure, a disclosure must satisfy the following criteria.

- Did a natural person (that is, an individual person rather than a corporation) make the disclosure?
- Does the disclosure relate to conduct of a public body or public officer acting in their official capacity?
- Is the alleged conduct either improper conduct or detrimental action taken against a person in reprisal for making a protected disclosure?
- Does the person making a disclosure have reasonable grounds for believing the alleged conduct has occurred?

Where a disclosure is assessed to be a protected disclosure, the protected disclosure coordinator will then determine whether the disclosure is a public interest disclosure.

Where a disclosure is assessed not to be a protected disclosure, the matter does not need to be dealt with under the Act. The protected disclosure coordinator will decide how the matter should be responded to. The whistleblower will be consulted before the matter is dealt with under any other departmental policy or referred to any other person or body.

#### Is the disclosure a public interest disclosure?

Where the protected disclosure officer or coordinator has received a disclosure that has been assessed to be a protected disclosure, the protected disclosure coordinator will determine whether the disclosure amounts to a public interest disclosure. This assessment will be made within 45 days of the receipt of the disclosure.

In reaching a conclusion as to whether a protected disclosure is a public interest disclosure, the protected disclosure coordinator will consider whether the disclosure shows, or tends to show, that the public officer to whom the disclosure relates:

- has engaged, is engaging, or proposes to engage in improper conduct in his or her capacity as a public officer; or
- has taken, is taking, or proposes to take detrimental action in reprisal for the making of the protected disclosure.

Improper conduct means conduct that is corrupt, a substantial mismanagement of public resources, or conduct involving substantial risk to public health or safety or to the environment. The conduct must be serious enough to constitute, if proved, a criminal offence or reasonable grounds for dismissal.

The Act makes it an offence for a person to take detrimental action against a person in reprisal for a protected disclosure. Detrimental action includes:

- action causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

Where the protected disclosure coordinator concludes that the disclosure amounts to a public interest disclosure, he or she will:

1. Notify the person who made the disclosure of that conclusion.
2. Refer the disclosure to the Ombudsman for formal determination as to whether it is indeed a public interest disclosure.

Where the protected disclosure coordinator concludes that the disclosure is not a public interest disclosure, he or she will:

1. Notify the person who made the disclosure of that conclusion.
2. Advise that person that he or she may request the public body to refer the disclosure to the Ombudsman for a formal determination as to whether the disclosure is a public interest disclosure, and that this request must be made within 28 days of the notification.

In either case, the protected disclosure coordinator will make the notification and the referral within fourteen days of the conclusion being reached by the public body. Notification to the whistleblower is not necessary where the disclosure has been made anonymously.

#### Investigations

Where the Ombudsman refers a protected disclosure to the Department of Justice for investigation, the protected disclosure coordinator will appoint an investigator to carry out the investigation.

The objectives of an investigation will be to:

- collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
- consider the information collected and to draw conclusions objectively and impartially;
- maintain procedural fairness in the treatment of witnesses and the person who is the subject of the disclosure; and
- make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

#### Terms of reference

Before commencing an investigation, the protected disclosure coordinator will draw up terms of reference and obtain authorisation for those terms from the Secretary of the Department. The terms of reference will set a date by which the investigation report is to be concluded, and will describe the resources available to the investigator to complete the investigation within the time set. The protected disclosure coordinator may approve, if reasonable, an extension of time requested by the investigator. The terms of reference will require the investigator to make regular reports to the protected disclosure coordinator who, in turn, will keep the Ombudsman informed of general progress.

## Investigation plan

The investigator will prepare an investigation plan for approval by the protected disclosure coordinator. The plan will list the issues to be substantiated and describe the avenue of inquiry. It will address the following issues.

- What is being alleged?
- What are the possible findings or offences?
- What are the facts in issue?
- How is the inquiry to be conducted?
- What resources are required?

At the commencement of the investigation, the whistleblower should be:

- notified by the investigator that he or she has been appointed to conduct the investigation;
- asked to clarify any matters; and
- asked to provide any additional material he or she might have.

The investigator will be sensitive to the whistleblower's possible fear of reprisals and will be aware of the statutory protections provided to the whistleblower.

## Natural justice

The principles of natural justice will be followed in any investigation of a public interest disclosure. The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an objective decision maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process.

- The Department of Justice will have regard to the following issues in ensuring procedural fairness.
- The person who is the subject of the disclosure is entitled to know the allegations made against him or her and must be given the right to respond. (This does not mean the person must be advised of the allegation as soon as the disclosure is received or the investigation has commenced.)
- If the investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defence should be fairly set out in the report.
- All relevant parties to a matter should be heard and all submissions should be considered.
- A decision should not be made until all reasonable inquiries have been made.
- The investigator or any decision maker should not have a personal or direct interest in the matter being investigated.

All proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process.

The investigator must be impartial in assessing the credibility of the whistleblower/s and any witnesses. Where appropriate, conclusions as to credibility should be included in the investigation report.

## Conduct of the investigation

The investigator will make notes of all discussions and phone calls, and all interviews with witnesses will be taped. All information gathered in an investigation will be stored securely. Interviews will be conducted in private, and the investigator will take all reasonable steps to protect the identity of the whistleblower. Where disclosure of the identity of the whistleblower cannot be avoided due to the nature of the allegations, the investigator will warn the whistleblower and his or her welfare manager of this probability.

It is in the discretion of the investigator to allow any witness to have legal or other representation or support during an interview. If a witness has a special need for legal representation or support, permission should be granted.

## Referral of an investigation to the Ombudsman

The protected disclosure coordinator will make a decision regarding the referral of an investigation to the Ombudsman where, on the advice of the investigator:

- the investigation is being obstructed by, for example, the non-cooperation of key witnesses; or
- the investigation has revealed conduct that may constitute a criminal offence.

## Reporting requirements

The protected disclosure coordinator will ensure the whistleblower is kept regularly informed concerning the handling of a protected disclosure and an investigation. The protected disclosure coordinator will report to the Ombudsman about the progress of an investigation. Where the Ombudsman or the whistleblower requests information about the progress of an investigation, that information will be provided within 28 days of the date of the request.

## Action taken after an investigation

### Investigator's final report

At the conclusion of the investigation, the investigator will submit a written report of his or her findings to the protected disclosure coordinator. The report will contain:

- the allegation/s;
- an account of all relevant information received and, if the investigator has rejected evidence as being unreliable, the reasons for this opinion being formed;
- the conclusions reached and the basis for them; and
- any recommendations arising from the conclusions.

Where the investigator has found that the conduct disclosed by the whistleblower has occurred, recommendations made by the investigator will include:

- the steps that need to be taken by the Department of Justice to prevent the conduct from continuing or occurring in the future; and
- any action that should be taken by the Department of Justice to remedy any harm or loss arising from the conduct. This action may include bringing disciplinary proceedings against the person responsible for the conduct, and referring the matter to an appropriate authority for further consideration.

The report will be accompanied by:

- the transcript or other record of any oral evidence taken, including tape recordings; and
- all documents, statements or other exhibits received by the officer and accepted as evidence during the course of the investigation.

Where the investigator's report is to include an adverse comment against any person, that person will be given the opportunity to respond and his or her defence will be fairly included in the report. The report will not disclose particulars likely to lead to the identification of the whistleblower.

### Action to be taken

If the protected disclosure coordinator is satisfied that the investigation has found that the disclosed conduct has occurred, he or she will recommend to the Secretary of the Department the action that must be taken to prevent the conduct from continuing or occurring in the future. The protected disclosure coordinator may also recommend that action be taken to remedy any harm or loss arising from the conduct. The protected disclosure coordinator will provide a written report to the Attorney-General, the Ombudsman and the whistleblower which sets out the findings of the investigation and any remedial steps taken.

Where the investigation concludes that the disclosed conduct did not occur, the protected disclosure coordinator will report these findings to the Ombudsman and to the whistleblower.

### Managing the welfare of the whistleblower

#### Commitment to protecting whistleblowers

The Department of Justice is committed to the protection of genuine whistleblowers against detrimental action taken in reprisal for the making of protected disclosures. The protected disclosure coordinator is responsible for ensuring whistleblowers are protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of protected disclosures being made.

The protected disclosure coordinator will appoint a welfare manager to all whistleblowers who have made a protected disclosure. The welfare manager will:

- examine the immediate welfare and protection needs of a whistleblower who has made a disclosure and, where the whistleblower is an employee, seek to foster a supportive work environment;
- inform the whistleblower of the legislative and administrative protections available to him or her;
- listen and respond to any concerns of harassment, intimidation or victimisation in reprisal for making disclosure;
- keep a contemporaneous record of all aspects of the case management of the whistleblower including all contact and follow-up action; and
- discuss with the whistleblower what would be a realistic expectation for the outcome of an investigation of the disclosure.

All employees will be advised that it is an offence for a person to take detrimental action in reprisal for a protected disclosure. The maximum penalty is a fine of 240 penalty units (\$24,000) or two years imprisonment, or both. The taking of detrimental action in breach of this provision can also be grounds for making a disclosure under the Act and can result in an investigation.

Detrimental action includes:

- causing injury, loss or damage;
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business (including the taking of disciplinary action).

### Keeping the whistleblower informed

The protected disclosure coordinator will ensure the whistleblower is kept informed of action taken in relation to his or her disclosure, and the timeframes that apply. The whistleblower will be informed of the objectives of an investigation, the findings of an investigation, and the steps taken by the Department of Justice to address any improper conduct that has been found to have occurred. The whistleblower will be given reasons for decisions made by the Department of Justice in relation to a protected disclosure. All communication with the whistleblower will be in plain English.

### Occurrence of detrimental action

If a whistleblower reports an incident of harassment, discrimination or adverse treatment that would amount to detrimental action taken in reprisal for the making of the disclosure, the welfare manager will:

- record details of the incident;
- inform the whistleblower of his or her rights under the Act; and
- advise the protected disclosure coordinator of the detrimental action.

The taking of detrimental action in reprisal for the making of a disclosure can be an offence against the Act as well as grounds for making a further disclosure. Where such detrimental action is reported, the protected disclosure coordinator will assess the report as a new disclosure under the Act. Where the protected disclosure coordinator is satisfied that the disclosure is a public interest disclosure, he or she will refer it to the Ombudsman. If the Ombudsman subsequently determines the matter to be a public interest disclosure, the Ombudsman may investigate the matter or refer it to another body for investigation as outlined in the Act.

### Whistleblowers implicated in improper conduct

Where a person who makes a disclosure is implicated in misconduct, the Department of Justice will handle the disclosure and protect the whistleblower from reprisals in accordance with the *Whistleblowers Protection Act 2001*, the Ombudsman's guidelines and these procedures. The Department of Justice acknowledges that the act of whistleblowing should not shield whistleblowers from the reasonable consequences flowing from any involvement in improper conduct. Section 17 of the Act specifically provides that a person's liability for his or her own conduct is not affected by the person's disclosure of that conduct under the Act. However, in some circumstances, an admission may be a mitigating factor when considering disciplinary or other action.

The Secretary of the Department will make the final decision on the advice of the protected disclosure coordinator as to whether disciplinary or other action will be taken against a whistleblower. Where disciplinary or other action relates to conduct that is the subject of the whistleblower's disclosure, the disciplinary or other action will only be taken after the disclosed matter has been appropriately dealt with.

In all cases where disciplinary or other action is being contemplated, the Secretary of the Department must be satisfied that it has been clearly demonstrated that:

- the intention to proceed with disciplinary action is not causally connected to the making of the disclosure (as opposed to the content of the disclosure or other available information);
- there are good and sufficient grounds that would fully justify action against any non-whistleblower in the same circumstances; and
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

The protected disclosure coordinator will thoroughly document the process including recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for the making of the disclosure. The protected disclosure coordinator will clearly advise the whistleblower of the proposed action to be taken, and of any mitigating factors that have been taken into account.

### Management of the person against whom a disclosure has been made

The Department of Justice recognises that employees against whom disclosures are made must also be supported during the handling and investigation of disclosures. The Department of Justice will take all reasonable steps to ensure the confidentiality of the person who is the subject of the disclosure during the assessment and investigation process. Where investigations do not substantiate disclosures, the fact that the investigation has been carried out, the results of the investigation, and the identity of the person who is the subject of the disclosure will remain confidential.

The protected disclosure coordinator will ensure the person who is the subject of any disclosure investigated by or on behalf of a public body is:

- informed as to the substance of the allegations;
- given the opportunity to answer the allegations before a final decision is made;
- informed as to the substance of any adverse comment that may be included in any report arising from the investigation; and
- has his or her defence set out fairly in any report.

Where the allegations in a disclosure have been investigated, and the person who is the subject of the disclosure is aware of the allegations or the fact of the investigation, the protected disclosure coordinator will formally advise the person who is the subject of the disclosure of the outcome of the investigation. The Department of Justice will give its full support to a person who is the subject of a disclosure where the allegations contained in a disclosure are clearly wrong or unsubstantiated. If the matter has been publicly disclosed, the Secretary of the Department of Justice will consider any request by that person to issue a statement of support setting out that the allegations were clearly wrong or unsubstantiated

### Criminal offences

The Department of Justice will ensure officers appointed to handle protected disclosures and all other employees are aware of the following offences created by the Act:

1. It is an offence for a person to take detrimental action against a person in reprisal for a protected disclosure being made. The Act provides a maximum penalty of a fine of 240 penalty units (\$24,000) or two years imprisonment, or both.
2. It is an offence for a person to divulge information obtained as a result of the handling or investigation of a protected disclosure without legislative authority. The Act provides a maximum penalty of 60 penalty units (\$6,000) or six months imprisonment, or both.
3. It is an offence for a person to obstruct the Ombudsman in performing his responsibilities under the Act. The Act provides a maximum penalty of 240 penalty units (\$24,000) or two years imprisonment, or both.
4. It is an offence for a person to knowingly provide false information under the Act with the intention that it be acted on as a disclosed matter. The Act provides a maximum penalty of 240 penalty units (\$24,000) or two years imprisonment, or both.

### Collating and publishing statistics

The protected disclosure coordinator will establish a secure register to record the information required to be published in the annual report, and to generally keep account of the status of whistleblower disclosures. The register will be confidential and will not record any information that may identify the whistleblower.

The register will contain the following information:

- the number and types of disclosures made to the Department of Justice during the year;
- the number of disclosures referred to the Ombudsman for determination as to whether they are public interest disclosures;
- the number and types of disclosed matters referred to the Department of Justice by the Ombudsman for investigation;

- the number and types of disclosures referred by the Department of Justice to the Ombudsman for investigation;
- the number and types of investigations taken over from the Department of Justice by the Ombudsman;
- the number of requests made by a whistleblower to the Ombudsman to take over an investigation by the Department of Justice;
- the number and types of disclosed matters that the Department of Justice has declined to investigate;
- the number and types of disclosed matters that were substantiated upon investigation and the action taken on completion of the investigation; and
- any recommendations made by the Ombudsman that relate to the Department of Justice.

### Review

These procedures will be reviewed annually to ensure they meet the objectives of the Act and accord with the Ombudsman's guidelines.

### More information and frequently asked questions

More information about whistleblowing and answers to frequently asked questions are on the Department's website at <[www.justice.vic.gov.au](http://www.justice.vic.gov.au)>.

### References

Legislation	Whistleblowers Protection Act 2001
Other key documents	Ombudsman's guidelines Contact list for public bodies 'Making a Disclosure – Blowing the Whistle on Improper Conduct in the Victorian Public Sector' Whistleblowers' checklist Department of Justice Mail Registry Procedures Pro forma letters
Code of conduct forms	-

## Appendix H: Additional information

The following information, where it relates to the Department of Justice and is relevant to the financial year 2000–03, is available to the Minister, Members of Parliament and the public on request:

1. A statement that declarations of pecuniary interests have been duly completed by all relevant officers of the Department.
2. Details of shares held by senior officers as nominee, or held beneficial in a statutory authority or subsidiary.
3. Details of publications produced by the Department about the activities of the Department and where the publications can be obtained.
4. Details of changes in prices, fees, charges, rates and levies charged by the Department including services that are administered.
5. Details of any major external reviews carried out in respect of the operation of the Department.
6. Further details of any other research and development activities undertaken by the Department that are not otherwise covered in the Report of Operations or in a document which contains the financial report and Report of Operations.
7. Details of overseas visits undertaken, including a summary of the objectives and outcomes of each visit.
8. Details of major promotional, public relations and marketing activities undertaken by the Department, in order to develop community awareness of the services provided by the Department.
9. Details of assessment and measures undertaken to improve the occupational health and safety of employees, not otherwise detailed in the Report of Operations.
10. A general statement on industrial relations within the Department and details of time lost through industrial accidents and disputes, which are not otherwise detailed in the Report of Operations.
11. A list of major committees sponsored by the Department, the purposes of each committee and the extent to which the purposes have been achieved.



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