Blueprint Institute

Evidence-Based Policy Research Project 2022

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About Blueprint Institute

Every great achievement starts with a blueprint.

Blueprint Institute is an independent public policy think tank established in the era of COVID-19, in which Australians have witnessed how tired ideologies have been eclipsed by a sense of urgency, pragmatism, and bipartisanship. The challenges our nation faces go beyond partisan politics. We have a once-in-a-generation opportunity to rethink and recast Australia to be more balanced, prosperous, resilient, and sustainable. We design blueprints for practical action to move in the right direction.

For more information on the institute please visit our website—blueprintinstitute.org.au

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Attribution

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Introduction

The Evidence Based Policy Research Project seeks to determine the degree to which Australian public policymakers adequately follow an evidence-based policy process. A policymaking process that is 'evidence-based' has the following features: it aligns with the scientific method of inquiry, is based on analytical evaluation—such as cost-benefit analysis—and should follow a robust procedural system. In effective evidence-based policymaking, a problem is identified, and objectives are formulated, which leads to an evaluation of all possible solutions. The optimal decision is then drawn from this evaluation.

Past iterations of this project have found that much of public policy in Australia is formulated on a whim and without an evidence base. For example, from 2018 to 2021, the Evidence Based Policy Research Project examined 72 government bills—and found that only eight had used a cost-benefit analysis, with a further six that may have done so.

Our findings continue the trend, showing a consistent lack of a comprehensive evidence-based policy process as measured by the Wiltshire Criteria. Overall, the federal government scored lower than any of the state governments—averaging 5.25/10 across eight bills. Assessed across four bills each, the Victorian and New South Wales governments performed only marginally higher than the federal government with an average of 6/10 and 6.5/10 respectively, while Queensland scored 7.5/10. Although there is some variance between jurisdictions, the statistical significance of these differences should not be overstated given the small sample sizes.

An evidence-based policy process—which includes the analysis of alternative options and implementation mechanisms, stakeholder consultation, and public input—is a reasonable standard to expect of policymakers. Yet, as our findings uncover, it is often lacking.

Governments justifiably point to the need to avoid delegating policymaking authority to unelected technocrats who arbitrarily decide what constitutes an acceptable 'evidence base' for policy. This is why the focus should be on legislation—rather than the micro decisions politicians make on a day-to-day basis.

Most government expenditure and policy implementation is done outside of the legislative process—either through regulation, or interpretations of existing acts—thereby avoiding the need to pass new bills. Yet legislation is the macro architecture through which policies are expressed. It forms the foundation of policy design.

Thus, implementing mechanisms around the legislative process that encourage evidence-based policymaking is important if policy outcomes are to be improved over the long term. The Wiltshire Criteria—against which the bills selected in this project are assessed—highlight 10 pass/fail conditions that determine the evidence base for new pieces of legislation.

The Wiltshire Criteria

The Wiltshire Criteria are 10 criteria for a public policy business case. These are as follows:

1. Establish need: Identify a demonstrable need for the policy, based on hard evidence and consultation with all the stakeholders involved, particularly interest groups who will be affected. ('Hard evidence' in this context means both quantifying tangible and intangible knowledge, for instance the actual condition of a road, as well as people's view of that condition, so as to identify any perception gaps).

2. Set objectives: Outline the public interest parameters of the proposed policy and clearly establish its objectives. For example, interpreting public interest as 'the greatest good for the greatest number' or 'helping those who can't help themselves'.

3. Identify options: Identify alternative approaches to the design of the policy, preferably with international comparisons where feasible. Engage in realistic costings of key alternative approaches.

4. Consider mechanisms: Consider implementation choices across a full spectrum, from incentives to coercion.

5. Brainstorm alternatives: Consider the pros and cons of each option and mechanism. Subject all key alternatives to a rigorous cost-benefit analysis. For major policy initiatives (over $100 million), require a Productivity Commission analysis.

6. Design pathway: Develop a complete policy design framework including principles, goals, delivery mechanisms, program or project management structure, the implementation process and phases, performance measures, ongoing evaluation mechanisms and reporting requirements, oversight and audit arrangements, and a review process ideally with a sunset clause.

7. Consult further: Undertake further consultation with key affected stakeholders of the policy initiative.

8. Publish proposals: Produce a Green and then a White Paper for public feedback and final consultation purposes, and to explain complex issues and processes.

9. Introduce legislation: Develop legislation and allow for comprehensive parliamentary debate, especially in committee, and also intergovernmental discussion where necessary.

10. Communicate decision: Design and implement and clear, simple, and inexpensive communication strategy based on information not propaganda, regarding the new policy initiative.

Methodology

The questions listed below were used to assess the policymaking process underlying 20 high-profile government decisions. For each of the 10 criteria, the chosen policy and its passage into legislation was studied. We then passed or failed each criterion depending on whether or not sufficient relevant evidence was found. A cumulative score out of 10 indicates the evidence-based standard of the policy according to the Wiltshire Criteria.

Scoring Criteria:

0–4.5 – Unacceptable
5.0–6.5 – Mediocre
7.0–7.5 – Acceptable
8.0–8.5 – Sound
9.0–10.0 – Excellent

Questions (Based on Wiltshire Criteria)

1. Need

Is there a statement of why the policy was needed based on factual evidence and stakeholder input?

2. Objectives

Is there a statement of the policy's objectives couched in terms of the public interest?

3. Options

Is there a description of the alternative policy options considered before the preferred one was adopted?

4. Mechanisms

Is there a disclosure of the alternative ways considered for implementing the chosen policy?

5. Analysis

Is there a published analysis of the pros and cons, data and assumptions and benefits and costs of the alternative options and mechanisms considered in 3 and 4?

6. Pathway

Is there evidence that a comprehensive project management plan was designed for the policy's rollout?

7. Consultation

Was there further consultation with affected stakeholders after the preferred policy was announced?

8. Papers

Was there (a) a Green Paper seeking public input on possible policy options and, (b) a White Paper explaining the final policy decision?

9. Legislation

Was the policy initiative based on new or existing legislation that enabled comprehensive Parliamentary debate and public discussion?

10. Communication

Is there an official online media release or website that explains the final policy in simple, clear, and factual terms?

Limitations

The primary challenge we faced was one of interpretation. The Wiltshire Criteria represent a valiant attempt at a clear and consistent evaluation of the complex policymaking process, but some ambiguity in the interpretation of the criteria remains. For reasons outlined below, when faced with such ambiguity, we chose to read the relevant question liberally, and lean toward giving the government the benefit of the doubt.

When considering what qualifies as 'factual evidence' to substantiate a given policy's need, we chose to rely mainly on evidence existing within the text of a bill. Moreover, if the government made clear reference to an inquiry or review that provided evidence of need, we took that into account. However, we chose not to pass a bill on the 'Need' criteria if, for example, such information existed in the public domain but was ignored in the text of the bill.

Reliance on publicly available documentation and evidence was another challenge we faced. This was especially the case when judging the 'Consultation' criteria, where passing the relevant Wiltshire Criteria depends on publicly available records of further consultations with stakeholders. Any private consultations, or consultation that the government did not explicitly acknowledge, could not be considered, meaning there may have been policies that were unfairly failed due to our reliance on publicly available information. This issue also speaks to the need for greater transparency in the policymaking process.

Furthermore, we found that addressing the criteria for published proposals proved difficult due to the lack of consistency with papers available. If we were rigid with the traditional two-stage Green and White 'Papers' criteria, then very few policies would have passed this criterion. Again, we chose to take a liberal approach and leaned towards giving the government the benefit of the doubt. The Evidence Based Policy Research Project's website explicitly highlights that the traditional two-stage paper approach is now rarely used in the policymaking process.

Finally, there are potential definitional limitations within the Wiltshire Criteria that must be acknowledged. Specifically, by using a definition of 'evidence base' that is rigidly positivist in nature, one is often encouraged to presume that 'evidence' can be separated from political argument when in fact the opposite is true: evidence cannot *exist* without argument.

Whilst proponents of positivist and stochastic models of evidence assessment bristle at suggestions that there is no such thing as independent and objective evidence, the reality is that evidence must be defined alongside ‘data’ and ‘information’. ‘Data’ consists of interpretations about the world (for example survey results), ‘information’ is data that has been organised and categorised (for example the work presented in the Evidence Based Research Project, or a statistical regression analysis) and ‘evidence’ is information that is selected to support a certain point in an argument. Evidence thus cannot be delinked from the narrative within which it is embedded.

Findings

Federal Policy	Need	Objectives	Options	Mechanisms	Analysis	Pathway	Consultation	Papers	Legislation	Communication	Total
Foreign Intelligence Legislation Amendment Bill 2021	Y	Y	N	N	N	N	N	N	Y	Y	4/10
Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	9/10
Customs Tariff/Excise Tariff Amendment (Cost of Living Support) Bill 2022	Y	Y	N	N	N	N	N	N	Y	Y	4/10
Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Bill 2021	Y	Y	N	N	N	Y	Y	Y	Y	Y	7/10

Narcotic Drugs Amendment (Medicinal Cannabis) Bill 2021	Y	Y	N	N	N	Y	N	Y	Y	Y	6/10
Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Bill 2021	Y	Y	N	N	N	Y	N	N	Y	Y	5/10
Electoral Legislation Amendment (Party Registration Integrity) Bill 2021	N	Y	N	N	N	N	N	N	N	Y	2/10
Parliamentary Workplace Reform (Set the Standard Measures No.1) Bill 2022	Y	Y	N	N	N	Y	N	N	Y	Y	5/10
New South Wales Policy	**Need**	**Objectives**	**Options**	**Mechanisms**	**Analysis**	**Pathway**	**Consultation**	**Papers**	**Legislation**	**Communication**	**Total**
Roads and Crimes Legislation Amendment Bill 2022	Y	Y	N	N	N	Y	N	N	N	Y	4/10

Voluntary Assisted Dying Bill 2021	Y	Y	N	N	N	Y	Y	Y	Y	Y	7/10
Mandatory Disease Testing Bill 2020 No.13	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	10/10
Electric Vehicles (Revenue Arrangement) Bill 2021	Y	Y	N	N	N	Y	N	N	Y	Y	5/10
Victoria Policy	**Need**	**Objectives**	**Options**	**Mechanisms**	**Analysis**	**Pathway**	**Consultation**	**Papers**	**Legislation**	**Communication**	**Total**
Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021	Y	Y	Y	N	N	Y	Y	N	N	Y	6/10
Sex Work Decriminalisation Bill 2021	Y	Y	N	N	N	Y	Y	Y	Y	Y	7/10
Zero and Low Emission Vehicle Distance-based Charge Bill 2021	Y	Y	N	N	N	Y	Y	N	Y	Y	6/10

Windfall Gains Tax and State Taxation and Other Acts Further Amendment Bill 2021	N	Y	N	Y	N	N	Y	N	Y	Y	5/10
Queensland Policy	**Need**	**Objectives**	**Options**	**Mechanisms**	**Analysis**	**Pathway**	**Consultation**	**Papers**	**Legislation**	**Communication**	**Total**
Voluntary Assisted Dying Bill 2021	Y	Y	Y	N	N	Y	Y	Y	Y	Y	8/10
Youth Justice and Other Legislation Amendment Bill 2021	N	Y	Y	N	N	Y	Y	N	Y	Y	6/10
Housing Legislation Amendment Bill 2021	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	10/10
Defamation (Model Provisions) and Other Legislation Amendment Bill 2021	Y	Y	N	N	N	N	Y	Y	Y	Y	6/10

Federal government

The federal government was the lowest-performing government studied, scoring an aggregate of 42/80 for its overall performance.

A common weakness across all surveyed federal policies were the 'Options', 'Mechanisms', and 'Analysis' criteria. This suggests a fundamental lack of consideration for evidence-based criteria in federal policy design. Specifically, the federal government either failed to consider alternative policy options or implementation mechanisms before a final policy was chosen, or failed to share such considerations with the public. The evidence-based policymaking process demands rigorous and publicly accessible analysis of trade-offs and costs/benefits, which were often missing from the policies analysed.

Another consistent failure at the federal level was the lack of published proposals welcoming public input. This is concerning, given the contentious nature of some of the bills in question.

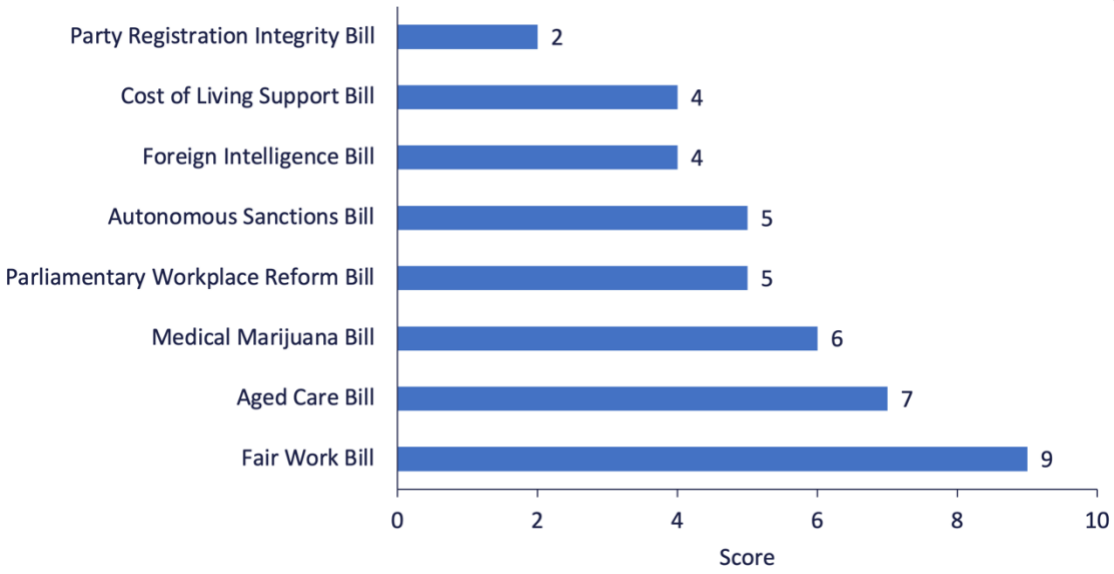

Figure 1 Federal Bills scorecard

Source: Blueprint Institute Analysis, Evidence-Based Policy Research Project

1. Foreign Intelligence Legislation Amendment Bill 2021

The Foreign Intelligence Legislation Amendment Bill (the Bill) was implemented to modernise the powers of intelligence agencies, in light of the hazards of the modern technological and communications landscape. The government, for example, argued that existing legislation rendered intelligence agencies unable to collect crucial data on foreign threats without running afoul of restrictions on domestic spying.

Rating: Mediocre (4/10)

Policy overview

The Foreign Intelligence Legislation Amendment Bill (2021) was introduced on 25 August 2021 to equip Australia's intelligence agencies with powers appropriate to combat emerging threats to national security. The legislation was preceded by a 2020 Comprehensive Review of the Legal Framework of the National Intelligence Community—the Richardson report—which recommended the modernisation of the Telecommunications (Interception and Access) Act 1979 (TIA Act) and the Intelligence Organisation Act 1979 (ASIO Act).

These acts provided an adequate framework for gathering intelligence when telephone and fax were the primary communication methods, and intelligence agencies could determine sender and receiver location data prior to interception. The proliferation of internet-based communication has made it virtually impossible to know whether a piece of communication is foreign or domestic at the point of interception. Intelligence agencies have forfeited intercepting foreign communications when there is even a small risk of incidentally intercepting domestic communications, for fear of breaching the TIA Act.

Schedule 1 of the Bill amends the foreign communications warrant in the TIA Act to overcome the difficulty facing intelligence agencies distinguishing between foreign and domestic communications. Under the reforms, the Director-General of Security can apply for a warrant authorising the interception of a communication for the purpose of obtaining foreign intelligence from foreign communications. Currently, the interception of any domestic communications is strictly prohibited.

Under the reforms, intelligence agencies will be better equipped to monitor the activities and interests of foreign people and organisations—and have greater insight into potential foreign threats to Australia.

Schedule 2 of the Bill enables the Attorney-General to issue warrants to collect foreign intelligence on Australians in Australia who are acting for, or on behalf of a foreign power. Currently, requesting a warrant to collect information concerning an Australian citizen or permanent resident is prohibited in all circumstances. This amendment will close a legislative gap in which foreign intelligence can be collected offshore on an Australian working for a foreign power, but that same intelligence cannot be gathered inside Australia.

This Bill was expedited and rushed through parliament, passing both houses the day after it was introduced. The (now former) Minister for Trade, Tourism and Investment, The Hon. Dan Tehan explained that this Bill was an urgent matter, stating that, 'each day these amendments are not in place risks our agencies missing critical foreign intelligence about threats to Australia and Australians.'

Foreign Intelligence Legislation Amendment Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	Both the advisory report and explanatory memorandum explicitly state the need for the policy to address two 'critical gaps' in the collection of foreign intelligence, and broaden the capacity of intelligence agencies to collect intelligence from domestic sources about foreign threats to Australia. This was in response to the findings of the Richardson review—which found some functions of the Telecommunications Bill required reform to adequately reflect the disruption of modern telecommunications since existing legislation had 'not kept up with the modern communications environment.' However, since the Bill was considered urgent, there was no evidence of stakeholder input demonstrating the need for the policy other than referring to 'intelligence agencies' generally in the Bill.
2. Objectives	**Yes**	The explanatory memorandum identifies the Bill's objectives and clarifies national interest. The purpose of the Bill was to 'improve intelligence agencies' ability to collect intelligence about foreign threats to Australia, and keep Australia safe and prosperous.'
3. Options	**No**	No evidence was disclosed to suggest consideration of alternative policy responses.
4. Mechanisms	**No**	No alternative implementation mechanisms were considered. However, this could be the result of a naturally narrow scope of alternatives due to the sensitive nature of the operations of intelligence agencies.

5. Analysis	**No**	There was no disclosure of data, working assumptions, or modelling present behind the policy—however this criteria may not be applicable given the nature of the Bill.
6. Pathway	**No**	The explanatory memorandum did not include a complete, carefully considered logistical strategy for rolling out the policy decision.
7. Consultation	**No**	There was no evidence of any meaningful consultation after the policy decision.
8. Papers	**No**	Neither a Green Paper nor a White Paper was released with the Bill.
9. Legislation	**Yes**	The Bill amended existing legislation and passed in parliament after brief debate. Although the debate process was expeditious, the Bill was considered urgent. In the second reading speech, Minister Tehan stated 'it is vital these amendments are made urgently. Each day these amendments are not in place risks our agencies missing critical foreign intelligence about threats to Australia and Australians.' Under these circumstances, we found it appropriate to pass this criteria.
10. Communication	**Yes**	There was an official passage announcing the Bill from The Hon. Karen Andrews MP (Former Minister for Home Affairs).
Total	**4/10**	

2. Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021

The Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021 (the Bill) aims to address known problems in the industrial relations system and support Australia's recovery from COVID-19 by encouraging economic growth. The Bill that was introduced to parliament was very different to the Bill that passed—showing it was highly contentious. Nevertheless, the Bill was based on a demonstrable, evidence-based need, included wider consultation, and explored a range of options, including engaging in key costings of various policy options.

Rating: Excellent (9/10)

Policy overview

On 9 December 2020, the federal government introduced the Fair Work Amendment Bill 2020 (Supporting Australia's Jobs and Economic Recovery), a Bill that amends the Fair Work Act 2009. The changes in the Bill were based on a six-month consultation period with key stakeholders. However, the House of Representatives passed a narrower version of the government's newly introduced amendments to the Fair Work Act 2009, on 22 March 2021, the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021.

The Bill was substantially amended by the Senate after Labor and the Greens opposed the entire Bill, and it became apparent that the government could not get support from a sufficient number of Senators to pass all seven amending schedules of the Bill. The Bill was then significantly amended to remove a number of provisions. However, the changes introduced by Schedule 1, the only schedule to survive, were extensive.

Despite having wide parliamentary support, including support from One Nation and the Centre Alliance, the government abandoned the part of the Bill that enforces higher penalties and new criminal offences for wage theft. No reason was given for removing this provision that was a priority for unions representing workers. Later, a bid to reimplement wage theft provisions was blocked by One Nation and the Coalition. Key provisions in the Bill that survived the amendments included, clarifying casual employment arrangements, the risk of underpayment, and 'double dipping'.

According to the Revised Explanatory Memorandum, the Bill supports the government's commitment to Australia's jobs and economic recovery by:

- providing certainty to businesses and employees about casual employment;

- giving regular casual employees a statutory pathway to ongoing employment by including a casual conversion entitlement in the National Employment Standards (NES) of the Fair Work Act;
- extending two temporary JobKeeper flexibilities to businesses, in identified industries significantly impacted by the pandemic;
- giving employers confidence to offer part-time employment and additional hours to employees, promoting flexibility and efficiency;
- streamlining and improving the enterprise agreement making and approval process to encourage participation in collective bargaining;
- ensuring industrial instruments do not transfer when an employee transfers between associated entities at the employee's initiative;
- providing greater certainty for investors, employers and employees by allowing the nominal life of greenfields agreements made in relation to the construction of a major project to be extended;
- strengthening the Fair Work Act compliance and enforcement framework to address wage underpayments, ensure businesses have the confidence to hire and ensure employees receive their correct entitlements; and
- introducing measures to support more efficient Fair Work Commission (FWC) processes.

In February and March 2021, the Bill was referred to the Senate Standing Committee on Education and Employment and the Standing Committee for the Scrutiny of Bills. Both committees subsequently recommended the Bill's passage.

Following its passage through both Houses, the Bill received Royal Assent on 26 March 2021.

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The Bill was developed with input from a range of stakeholders, including unions and employers. A statement of need was established during former Attorney General The Hon. Christian Porter's second reading speech—he explained the reforms 'address known problems in the industrial relations system and will be crucial to securing Australia's economic recovery and safeguarding the workplace for future generations.' Furthermore, the Bill was based on recommendations from both the 2012 Post-Implementation Review of the Fair Work Act and the 2015 Productivity Commission Inquiry into the Workplace Relations Framework. Findings indicated that flexible work patterns are favourable to Australia's continuing prosperity, and that there were 'significant problems and an assortment of peculiarities' in the workplace relations system.
2. Objectives	**Yes**	The objectives of the Bill were clearly outlined and contextualised in terms of economic recovery following the pandemic.
3. Options	**Yes**	The Regulatory Impact Statement provided different policy options with key costings of alternative approaches.
4. Mechanisms	**Yes**	Also in the Regulatory Impact Statement, there was substantial discussion of to what extent the desired outcome could be achieved through different means of implementation.
5. Analysis	**Yes**	Detailed analysis of the alternative options were publicly provided. This included net benefits of policy options, benefits and costs for workers, minor regulatory burden, and other cost savings.
6. Pathway	**Yes**	The Explanatory Memorandum outlines the goals, aims, a pathway for the design and implementation, and evaluation of the policies. It also includes a commitment that the Attorney-General's Department will monitor progress and uptake, and continue to engage in stakeholder consultation with employer and employee groups to gauge the impact of the reform.
7. Consultation	**Yes**	Working groups were established prior to introducing the legislation and, as outlined above, the government committed to continue stakeholder consultation with employer and employee groups to gauge the impact of the reform.

8. Papers	**Yes**	The Education and Employment Legislation Committee released a report that outlined the background to the Bill, as well as its key provisions. It also sets out the key issues raised by submitters and witnesses, and sets out the committee view. There were also initial working groups, submissions, consultations, and reviews on the main themes in the Bill, and amendments in Parliament.
9. Legislation	**No**	The Bill was opposed by the Opposition and although amendments were passed, these amendments contained virtually no measures agreed to by the Australian union movement on behalf of workers during the consultations—in fact, measures supported by union groups were removed with no explanation and the Bill that passed was extremely different to the one introduced.
10. Communication	**Yes**	There is a website outlining the changes to the Fair Work Act 2009 in relation to, workplace entitlements and obligations for casual employees.
Total	**9/10**	

3. Customs Tariff/Excise Tariff Amendment (Cost of Living Support) Bill 2022

The Customs Tariff/Excise Tariff Amendment (Cost of Living Support) Bill 2022 (the Bill) was passed on 1 April 2022 as a temporary measure to halve the excise and excise-equivalent customs duty rates for fuels. This measure was introduced to ease rising cost-of-living pressures as the economy grappled with high inflation after the pandemic. By halving these excise rates, it was expected that retailers would transfer these cuts straight to the bowser for consumers.

Rating: Unacceptable (4/10)

Policy overview

The Customs Tariff/Excise Tariff Amendment (Cost of Living Support) Bill 2022 was introduced on 30 March 2022 and received Royal Assent on the following day. This Bill was introduced to temporarily reduce the costs of excise and excise-equivalent customs duty rates for fuels. This included petrol, diesel, and other oil-based fuels. These measures were introduced to ease cost of living pressures that have emerged during the post-pandemic economic recovery. The Bill formed part of the 2022-23 Federal Budget.

The new proposals in detail are as follows:

Excise duty—From 30 March 2022, the excise duty rates on fuels, including petrol, diesel, and similar petroleum-based products are reduced by 50% for a period of six months until 28 September 2022 (inclusive). From 29 September 2022, the fuel excise duty rates automatically return to the full rates and apply as if there had not been a temporary reduction in excise duty rates. These changes do not affect current ongoing indexation arrangements, although indexation in August 2022 applies to the reduced duty rate.

From 30 March 2022, the excise and excise-equivalent customs duty rates applying to fuels, including petrol, diesel, and similar products are as follows:

- petrol and diesel, $0.221 per litre;
- liquefied petroleum gas, $0.072 per litre;
- liquefied natural gas and compressed natural gas, $0.152 per litre;
- denatured ethanol for use in internal combustion engines, $0.073 per

- litre; and
- biodiesel, $0.044 per litre.

Also, the excise and excise-equivalent customs duty rates for similar oils and grease are reduced to:

- $0.043 per litre for oils; and
- $0.043 per kilogram for grease.

Labor's nominal support of the Bill was qualified by their criticism over both how long it had taken for the government to deliver on cost-of-living support, and the legislation's timing on the eve of an election.

As the Bill formed part of the 2022-23 Federal Budget, it was couched in terms of the broader national interest when read in parliament. Former Liberal Senator The Hon. Amanda Stoker justified the policy by pointing to cost-of-living stresses that had been exacerbated by high commodity prices from the Ukraine invasion. Labor was critical in response, arguing that cost-of-living pressures had been rising long before the invasion of Ukraine.

Once the Bill was implemented, retail fuel prices fell almost immediately, and the saving was passed on—in-full—by wholesalers to retailers. However, by June 2022, fuel prices had clawed back—almost to levels before the cut was announced. Current Treasurer Hon. Dr Jim Chalmers warned consumers to brace for further cost-of-living stress after the tariff rate returns to normal levels in September.

The Coalition has backflipped on its original six-month deadline, which they announced in the budget, pressuring Labor to extend the excise relief beyond September due to the continued rise in living costs.

Customs Tariff/Excise Tariff Amendment (Cost of Living Support) Bill 2022

Criteria	Score	Analysis
1. Need	**Yes**	Both the government and the opposition identified the need for cost-of-living support through multiple second reading speeches. Liberal Senator The Hon. Jane Hume stated in the second reading speech that 'as part of Australia's plan for a stronger future, the government is taking decisive, responsible and temporary action to reduce the pressure of high fuel prices on household budgets across Australia'. Hume cited the Russian invasion of Ukraine as the cause of soaring fuel prices, which were 'adding to the cost of living pressures faced by families and the cost of doing business.'
2. Objectives	**Yes**	The Explanatory Memorandum states the policy's objectives in terms of public interest. The government announced in the Budget that it would temporarily reduce the excise and excise-equivalent customs duty rates for fuels 'to help reduce cost of living pressures for households and assist Australian businesses.' Senator Stoker's second reading speech also situated the policy in the national interest, acknowledging that 'the budget does something very important for all Australians. It acknowledges the challenges that households are facing right now as our market adapts to many of the challenges that have put inflationary pressures on prices.'
3. Options	**No**	There was no description of policy alternatives considered.
4. Mechanisms	**No**	There was no disclosure of alternative implementation mechanisms.
5. Analysis	**No**	There was no analysis to be found.
6. Pathway	**No**	Despite the temporary measure having a six-month sunset clause and a clear objective, there was no further evidence of a comprehensive design pathway. The Bill was rushed through parliament and there was no inclusion of principles, performance measures or a review process.

7. Consultation	**No**	There was no evidence of any consultation that occurred since the policy's announcement. Extensive consultation did occur with regard to the Federal Budget more generally—but no relevant submission regarding the customs/excise tariff amendment was found.
8. Papers	**No**	There was neither a Green nor White Paper associated with the Bill.
9. Legislation	**Yes**	The Bill was introduced to amend Customs Tariff Act 1995, received bipartisan support, and passed in its original form—although it was rushed through parliament, receiving Royal Assent a day after it was introduced for the first time.
10. Communication	**Yes**	Budget reports outlined the Bill in simple terms, including a government fact sheet explaining the Bill in detail. In our judgement, this was sufficient to pass the criterion, however, we do note the lack of an official media release or website specifically for the customs tariff or excise tariff amendments.
Total	**4/10**	

4. Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Bill 2021

The Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Bill 2021 (the Bill) responds to recommendation 17, as well as supporting recommendations 118 and 27 of the Royal Commission's final report. The Bill introduces a number of urgent amendments aiming to ensure senior Australians receive high-quality and safe aged care services.

Rating: Acceptable (7/10)

Policy overview

The Aged Care and Other Amendment (Royal Commission Response No.1) Bill 2021 is the first legislative response to the Aged Care Royal Commission and amends the Aged Care Act 1997 (Aged Care Act) in relation to; restrictive practices, home care assurance reviews, and the Aged Care Financing Authority. The Bill is part of the government's aged care reform package—in which they are investing $17.7 billion. The reform package is focused around five pillars, over a five-year period: home care, residential aged care services and sustainability, residential aged care quality and safety, workforce, and governance. The Bill is part of the first of the five pillars.

The aged care reform package is in response to the recommendations of the Royal Commission into Aged Care Quality and Safety's final report. The report emphasised that demand for aged care will increase due to our ageing population. Notably, it is projected that the number of Australians aged 85 years and over will increase from 515,700 in 2018–19 (2.0% of the Australian population) to more than 1.5 million by 2058 (3.7% of the population). The Report also highlighted a plethora of fundamental issues with Australia's current aged care systems and services. For example, older people are waiting far too long to get access to care at home, and 'without access to home care services that meet their assessed needs, people face risks of declining function, preventable hospitalisation, carer burnout, premature entry to residential aged care, and even death.'

The Report also highlighted issues around abuse by stating that 'the inappropriate use of unsafe and inhumane restrictive practices in residential aged care has continued, despite multiple reviews and reports highlighting the problem'. The Report provided 148 recommendations to substantially rectify the aged care sector. In response to the recommendations, the Morrison Government accepted in principle 126 recommendations.

The Bill makes amendments to the Aged Care Act in three main areas.

- In Schedule 1 of the Bill, changes are made to further strengthen legislation on the use of restrictive practices in aged care. The Bill now defines the term ‘restrictive practice’ in alignment with the definition applied under the National Disability Insurance Scheme and is defined as ‘any practice or intervention that has the effect of restricting the rights or freedom of movement of the care recipient’. The aim being that the new definition ‘strengthens protections for care recipients from abuse associated with the unregulated use of restrictive practices'.

The Bill also improves the Aged Care Quality and Safety Commissioner’s capacity to respond to breaches of approved providers’ responsibilities.

Schedule 2 of the Bill amends the Aged Care Act to enable the secretary to conduct home care assurance reviews to ensure the arrangements for home care are efficient and effective. Finally, Schedule 3 of the Bill removes the requirement for the Minister for Aged Care to establish a committee known as the Aged Care Financing Authority.

The Financial Impact Statement revealed that the expense to the government will be $20.2 million over five years from 2020–21.

The statement of compatibility highlights that the Bill is consistent with human rights as 'it advances protections for older Australians and strengthens the protection of care recipients by implementing measures to ensure greater protections from exploitation, violence, abuse and cruel, inhuman or degrading treatment'.

Following its passage through both Houses, the Bill received Royal Assent on 28 June 2021.

Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The Bill is the first legislative response to the final report of the Aged Care Royal Commission. Extensive consultation was undertaken through the Aged Care Royal Commission and the Restraint Review on the use of restrictive practices in residential aged care. Findings indicated that the inappropriate use of restrictive practices was an area in need of immediate action. The Aged Care Royal Commission outlined that, 'urgent reforms are necessary to protect older people from unnecessary, and potentially harmful, physical and chemical restraints.' The recommendations of the Royal Commission and their Restraint Review have instrumentally informed the amendments to the Aged Care Act and the Bill responds to recommendation 17, as well as supporting recommendations 118 and 27 of the Royal Commission's final report. Therefore, as the Bill was introduced to deal with recommendations of the Royal Commission, a need was clearly established.
2. Objectives	**Yes**	The Bill has objectives outlined throughout, couched in terms of the public interest.
3. Options	**No**	No alternative policy options were considered by the government, despite criticisms the policy does not do enough to address the damning and wide-ranging findings of the Aged Care Royal Commission.
4. Mechanisms	**No**	No evidence was found to suggest alternative ways of implementing the policy were considered.
5. Analysis	**No**	Although there was some cost analysis of the chosen policy in the Regulatory Impact Statement, this was insufficient and there were no alternative options analyses publicly available.
6. Pathway	**Yes**	The Bill includes substantial elements of a complete policy design framework within its Explanatory Memorandum, including principles, goals, delivery mechanisms, and ongoing evaluation mechanisms.
7. Consultation	**Yes**	The Bill was referred to the Senate Community Affairs Legislation Committee on 27 May 2021 for inquiry and report. The committee wrote to relevant organisations inviting submissions to the inquiry by 4 June 2021. Submissions continued to be accepted after this date. The committee received six submissions: from COTA Australia, Older Person's Advocacy Network, Leading Age Services Australia, Law Council of Australia, UnitingCare Australia, and Health Services Union.

8. Papers	**Yes**	There was an Exposure Draft released on the 1 June 2021, outlining the intentions and signalling preferred approaches for the Bill. There was also a consultation period seeking public input following the release of the exposure draft.
9. Legislation	**Yes**	The amendments in the Bill were based on a report that had extensive stakeholder input and consultation. Legislation was introduced to Parliament on 27 May 2021. Debate occurred where the Coalition, Labor, and The Greens were able to share their views on the Bill. The Bill was referred to the Senate Community Affairs Legislation Committee and following passage from both Houses received Royal Assent on 28 June 2021.
10. Communication	**Yes**	There was a media release issued by The Hon. Greg Hunt MP, Former Minister for Health and Aged Care, explaining the Bill.
Total	**7/10**	

5. Narcotic Drugs Amendment (Medicinal Cannabis) Bill 2021

The Narcotic Drugs Amendment (Medicinal Cannabis) Bill 2021 (the Bill) aims to support the Australian medicinal cannabis industry for the benefit of Australian patients and enable safe and sustainable pathways for accessing medical cannabis.

Rating: Mediocre (6/10)

Policy overview

The Bill was introduced to Parliament on 3 February 2021 and amended the Narcotic Drugs Act 1967. The changes in the Bill aim to preserve the balance between facilitating the cultivation and production of cannabis for medicinal purposes, and upholding obligations under the Single Convention on Narcotic Drugs to safeguard against the risk to communities.

The amendments are part of the second stage of the implementation of recommendations of the 2019 McMillan Review, carried out by Professor John McMillan AO. Such recommendations include, among other things:

- Recommendation 1: include a statement in the Act, highlighting that the purpose of the medicinal cannabis scheme established by the Act is to ensure that medicinal cannabis products are available to patients in Australia for therapeutic purposes;
- Recommendation 7: replace the prior three-licence structure (for cultivation and production, manufacture, and research) with a single licence for medicinal cannabis products, and;
- Recommendation 10: allow for a medicinal cannabis licence to be granted in perpetuity, unless the licence is revoked or surrendered, or a time-limit is specified by the Secretary. The previous legislation did not specify a maximum allowable licence period and licences were granted for up to three years.

The McMillian Review found that, while the establishment of the medicinal cannabis scheme in the Narcotic Drugs Amendment Bill 2016 was a key milestone in the government's approach to the treatment of pain and suffering, 'strong interest was expressed in submissions and consultations…for legislative and administrative reforms to improve the operation of the medicinal cannabis scheme.' The Review acknowledged the potential for the scheme to be exploited for criminal activities, but decided that the overall benefit of a more liberal medicinal cannabis regulatory regime outweighed any such risk.

Five themes were identified in the analysis undertaken by the Review, relating to areas of improvement for the medicinal cannabis scheme: unexpected administrative challenges, regulatory focus on risk minimisation, the licence and permit system, hemp cultivation and supply, and patient access. The 26 recommendations in the report span amendments of the Act, amendments of the Narcotic Drugs Regulation, and administrative-level reforms.

The Explanatory Memorandum outlines that such recommendations of the McMillan Review are also, 'being implemented administratively including reviewing and reforming medicinal cannabis permits issued under the Narcotic Drugs Act'—which can be done without legislative amendment.

Following the above reforms, a transition period is underway to review existing licence and permit documentation and reissue them. Webinars have been undertaken to inform stakeholders of the Licence Reform, which are available on the government website.

Furthermore, the Financial Impact Statement within the Explanatory Memorandum reported that, 'there are no financial implications for the government.' The Bill was also found to be 'compatible with human rights', as reported within the Statement of Compatibility with Human Rights in the Explanatory Memorandum.

Following its passage through both Houses, the Bill received Royal Assent on 24 June 2021.

Narcotic Drugs Amendment (Medicinal Cannabis) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	A need was clearly articulated during the second reading speeches when it was highlighted that, under the previous legal framework, the lack of affordable, safe, and approved products was leading the vast bulk of Australians who use medicinal cannabis products to access them outside of the legal framework. Furthermore, the amendments made to the legislation are part of the second stage of the implementation of recommendations from the McMillan Review. Public consultation with key stakeholders was a key element of the 2019 Review and findings show that strong interest was expressed, through submissions and consultations, for legislative and administrative reforms to improve the operation of the medicinal cannabis scheme.
2. Objectives	**Yes**	The objectives of the Bill were clearly outlined, including highlighting the public interest parameters of the proposed policy, for example: 'Reaffirming the Australian government's commitment to patient availability of safe, legal and sustainable supply of cannabis derived medicines.'
3. Options	**No**	Although the reforms in the 2021 Bill are substantially different to those in the 2016 Bill, indicating different options for reform were considered following the 2016 Bill, there were no alternative options identified for the 2021 Bill.
4. Mechanisms	**No**	No alternate mechanisms appear to have been considered for implementing the policy.
5. Analysis	**No**	No analysis of alternative options or mechanisms were publicly provided.
6. Pathway	**Yes**	The Bill displayed many elements of a complete policy design framework. Details of the Bill's goals, delivery mechanisms, implementation processes, and reporting requirements were publicly available.
7. Consultation	**No**	There was consultation on the operation of the Narcotic Drugs Act as a part of the McMillan Review and in the Bill's digest, and it was noted that, 'it is reasonable to assume that the medicinal cannabis industry would be broadly supportive of the Bill'. Yet there was no evidence of further consultation with affected stakeholders after the policy was announced, and it appears that support was assumed.

8. Papers	**Yes**	As a part of the review process, a Discussion Paper was published and public consultation, with invitations to comment on the Review of Narcotic Drugs Act 1967, was undertaken. There was also a Bills Digest explaining the final policy decision.
9. Legislation	**Yes**	The Narcotic Drugs Amendment Bill 2016 was extensively amended. Debate in both the public sphere and in Australian legislatures was extensive and centred around the expansion of patient access to medicinal cannabis products. The 2021 Bill was widely supported and, as mentioned, amendments were made as part of the recommendations of the 2019 McMillan Review.
10. Communication	**Yes**	A webpage was published around two weeks after the Bill received Royal Assent, on the government's Office of Drug Control, clearly explaining the final policy, including key outcomes.
Total	**6/10**	

6. Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Bill 2021

The Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Bill 2021 (the Bill) amends the Autonomous Sanctions Act 2011. It enables the use of sanctions on individuals and entities responsible for, or complicit in egregious conduct, including malicious cyber activity, serious human rights abuses and violations, and serious corruption.

Rating: Mediocre (5/10)

Policy overview

The Bill was introduced to parliament on 24 November 2021 and amends the Autonomous Sanctions Act 2011. Specifically, the amendments in the Bill will enable Australia to establish thematic regimes that will not be restricted in their operation to any particular country. Amendments will also enable the Minister for Foreign Affairs (the Minister) to impose targeted financial sanctions and travel bans against a person or entity that has:

- been engaged in, responsible for, or complicit in serious violations or abuses of three human rights relating to physical integrity [rights to life; not to be subjected to torture or cruel, inhuman or degrading treatment or punishment; and to be free from slavery, servitude or forced or compulsory labour];
- been engaged in, responsible for, or complicit in serious corruption, defined as bribery or misappropriation of property; or
- caused, assisted with causing, or been complicit in, a cyber incident or an attempted cyber incident that is significant or which, had it occurred, would have been significant.

Before making a thematic sanctions listing decision, the Minister is 'required to consult and obtain the agreement of the Attorney-General, as first law officer of the Commonwealth', and any other relevant ministers, to ensure they account for 'all relevant foreign policy and other national interest considerations.'

Furthermore, the amendments in the Bill also confirm that 'autonomous sanctions regimes established under the regulations can be either country-specific or thematic'—an expansion from the existing country-specific-only regimes. This means that if a person or entity meets the above criteria, they can be sanctioned regardless of where the conduct occurred.

The amendments in the Bill implement key aspects of the government's response to the Joint Standing Committee on Foreign Affairs, Defence and Trade's inquiry into, and report on the use of targeted sanctions to address gross human rights abuses completed by the Human Rights Sub-committee. Submissions were received from a range of individuals and organisations that had particular expertise with the issues being explored by the Sub-committee. Further information was provided through a program of public hearings, and there was a very high level of engagement throughout the inquiry.

The origin of Magnitsky-style laws was repeatedly raised in the Sub-committee's private briefing program by human rights organisations, advocacy groups, and members of diaspora communities. Magnitsky-style laws were inspired by Sergei Magnitsky, a Russian tax-advisor. In evidence to the Sub-committee, it was explained that Mr Magnitsky, 'uncovered a massive fraud committed by Russian government officials…[and] testified against the officials involved and was subsequently…imprisoned, systematically tortured and killed in Russian police custody...the Russian authorities covered up his murder, [and] exonerated all the officials involved.'

Subsequently, Mr Browder, a political activist, sought international justice through the enactment of legislation in the US and elsewhere to impose asset freezes and visa bans against human rights violators with assets in Western countries. Through the inquiry, it was suggested that the enactment of such a law in Australia would substantially strengthen Australia's ability to support international efforts to deter human rights abuse.

The Bill received Royal Assent on 7 December 2021.

Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	A statement of need for the amendments was identified throughout the Explanatory Memorandum. For example, 'this Bill will enable Australia to establish thematic regimes that will not be restricted in their operation to any particular country.' Furthermore, there was extensive stakeholder input into the inquiry and report, looking into targeted sanctions to address human rights abuses, conducted by the Joint Standing Committee on Foreign Affairs, Defence and Trades Sub-Committee and the Bill implements key aspects of the government's response to the report.
2. Objectives	**Yes**	The Explanatory Memorandum clearly outlines and contextualises the objectives in terms of public interest. For example: 'Autonomous sanctions…are highly targeted and intended to limit the adverse consequences of the situation of international concern and to influence and penalise those responsible for giving rise to the situations while minimising, to the extent possible, the impact on the general population.'
3. Options	**No**	Although the Bill amends the Autonomous Sanctions Act 2011, no other options appear to have been considered before the 2021 Bill was adopted.
4. Mechanisms	**No**	No alternative ways for implementing the policy were identified.
5. Analysis	**No**	No analysis was available.
6. Pathway	**Yes**	The Bill's Explanatory Memorandum explains details relating to its delivery, as well as the goals and objectives of the amendments. Furthermore, the Minister's second reading speech outlined the ongoing evaluation mechanisms and reporting requirements for the Bill, including that, 'after three years of the operation of the Bill coming into effect, the Joint Standing Committee on Foreign Affairs, Defence and Trade must commence a review of the operation of these amendments and prepare a written report of the review, which must be tabled in each house of parliament.'
7. Consultation	**No**	During the second reading speeches, The Hon. Dr David Gillespie MP (former Minister for Regional Health and Minister Assisting the Minister for Trade and Investment) said 'the government encourages public engagement on these significant

		issues…on human rights and corruption issues, conducts regular consultation with civil society and will continue to receive suggestions for sanctions listing from a range of sources.' However, we found no evidence of these consultations.
8. Papers	**No**	Although there was an Exposure Draft for the Bill, no efforts were identified for the government to receive public input following the release of the Exposure Draft.
9. Legislation	**Yes**	The Bill was introduced to parliament and read for the first time on 24 November 2021. Substantial debate occurred, including Committee of the Whole debate, and following passage from both Houses, the Bill received Royal Assent on 7 December, 2021.
10. Communication	**Yes**	There is a page on the Department of Foreign Affairs and Trade website that explains the Bill in simple, clear, and factual terms.
Total	**5/10**	

7. Electoral Legislation Amendment (Party Registration Integrity) Bill 2021

The Electoral Legislation Amendment (Party Registration Integrity) Bill (the Bill) passed in September 2021. The Bill tripled the required number of members for a political party to be registered, and also introduced legislation to prevent a new party's registration if their name included a word that was shared with an already established party. This Bill scored the lowest across the project.

Rating: Unacceptable (2/10)

Policy overview

On 2 September 2021, the Bill 2021 received Royal Assent after first being introduced on 12 August. The purpose of this Bill was to establish further integrity measures for party registration for federal elections.

The first measure was introduced to minimise the risk of voter confusion at elections due to registered parties sharing similar names. The Electoral Commissioner will now refuse the registration of political parties that include a word in their name that is shared with an already established party. The Explanatory Memorandum dictates that certain words are exempt; including collective nouns for people (like 'party'), a function word (like 'the', or 'of') or geographical places (like 'Australia'). There are also some special cases where the Commissioner can apply discretion in 'common sense' situations.

The second measure of the Bill increases the required number of members for registration of a political party from 500 to 1,500.

Whilst the Explanatory Memorandum states that the Bill was introduced to address two inquiries from the Joint Standing Committee on Electoral Matters on the 2013 and 2016 federal elections; substantive evidence of a legitimate need for the policy is found wanting.

Bipartisan support came from Labor, however the Greens and some crossbenchers opposed the Bill on the grounds that lifting the member registration requirement would entrench the two-party system—compromising democracy by stifling dissent. The Greens also criticised the Bill for being abruptly pushed through parliament with no apparent, demonstrable need for the policy. Former MP Craig Kelly and Senator Jacqui Lambie proposed amendments to the Bill, to no avail.

The Party Registration Integrity Bill 2021 was proposed alongside four other amendments to the Commonwealth Electoral Act 1918. The Bill was referred to the Senate Standing Committee for the Scrutiny of Bills on 25 August, and passed in both houses two days later.

Electoral Legislation Amendment (Party Registration Integrity) Bill 2021

Criteria	Score	Analysis
1. Need	**No**	According to the Bill's digest, the policy was 'introduced by the government with little warning or fanfare. While many of the provisions respond in some way to recommendations from Committee's election inquiries, they represent something of a random assortment of recommendations, with little or no apparent rhyme or reason.' The provisions respond to the inquiries into the 2013 and 2016 election, as outlined in the Explanatory Memorandum. However, hard evidence to suggest this policy was needed is lacking.
2. Objectives	**Yes**	The summary of the Bill defines its objectives—amending the Commonwealth Electoral Act 1918 to firstly 'increase the minimum membership requirements for non-parliamentary parties from 500 to 1500 unique members'; and secondly, to 'require the Electoral Commission to refuse an application by a political party to register a name, abbreviation or logo that replicates a key word or words in the registered name or abbreviation of a registered policy party without consent.' The Hon. Ben Morton MP, then Assistant Minister for Electoral Matters, established the policy objectives in terms of public interest in his media release, imploring that the 'provisions will enhance the integrity of the electoral process.'
3. Options	**No**	There was no description of alternative policy options considered.
4. Mechanisms	**No**	There was no disclosure of alternate implementation methods for the Bill.
5. Analysis	**No**	There was no analysis found for the Bill.
6. Pathway	**No**	The Bill was loosely based on previous Joint Standing Committee on Electoral Matters inquiries, but there was no adequate project management plan or rollout. Several features of a design pathway, including principles, evaluation mechanisms, and review process were not evident.

7. Consultation	**No**	There was no stakeholder consultation after the Bill was announced.
8. Papers	**No**	There was no Green or White Paper for this Bill. According to the Bill's digest, an Exposure Draft was released for public comment. An official media release also announced the exposure draft. However, it was also stated that the Exposure Draft 'presumably was the basis for the Electoral Legislation Amendment (Candidate Eligibility) Bill 2021'—and the Exposure Draft had no relevance to the Party Registration Integrity Bill.
9. Legislation	**No**	Despite the Bill amending existing legislation (Commonwealth Electoral Act 1918), the Bill passed through both houses in less than 24 hours, which did not allow for sufficient deliberation.
10. Communication	**Yes**	An official media release from then-Assistant Minister for Electoral Matters Ben Morton MP announced and explained the policy in clear terms.
Total	**2/10**	

8. Parliamentary Workplace Reform (Set the Standard Measures No. 1) Bill 2022

The Parliamentary Workplace Reform (Set the Standard Measures No. 1) Bill 2022 (the Bill) sets the standard for parliamentary workplace culture and behavioural conduct. This reform stems from the prominence of Brittany Higgins and Grace Tame's advocacy against sexual misconduct, which garnered significant public interest and political momentum—initiating an Independent Review into Commonwealth Parliamentary Workplaces. This report produced 28 policy recommendations, of which the Bill implemented two.

Rating: Mediocre (5/10)

Policy overview

These reforms were in response to the Jenkins Review (Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces) in November 2021. The review was conducted by the Australian Human Rights Commission and led by Sex Discrimination Commissioner Kate Jenkins. The recommendations that were produced gained support from Labor and the crossbench. This reform sets the standard for appropriate conduct in the workplace for parliamentarians. It also strengthens the existing measures in place protecting unfair dismissal, anti-discrimination, and workplace health and safety.

This Bill was introduced in response to allegations of toxic workplace culture in parliament. Leading the charge was former Liberal staffer Brittany Higgins who was allegedly raped inside Parliament House by a colleague. Similar public impact came from the advocacy of Grace Tame—a sexual assault survivor and activist whose work earned her the recognition of Australian of the Year in 2021. Both Tame and Higgins' public advocacy garnered significant national attention and stimulated debate that permeated throughout the political discourse for the remainder of Morrison's tenure as PM. This caused a groundswell of public support that catalysed the Jenkins Review—which came to fruition as the Parliamentary Workplace Reform Bill, giving effect to the new workplace standards.

The Jenkins Review conducted a survey of current parliamentarians as well as those affiliated with parliament, such as staffers and journalists. The survey received 900 responses and found that:

- Over one-third of parliamentary staff had experienced workplace bullying.
- Approximately one third of respondents reported that they had personally experienced sexual harassment in a parliamentary workplace.

The Review was comprehensive and examined the behavioural drivers and risk factors of misconduct. The key drivers included:

- Power imbalances
- Gender inequality
- Lack of accountability
- Entitlement and exclusion

The risk factors included:

- Unclear and inconsistent standards of behaviour
- Leadership deficit
- Workplace dynamics
- Social conditions of work
- Employment structures, conditions, and systems

The Review exposed the prevalence of workplace bullying, sexual harassment, and sexual assault. It produced 28 recommendations, of which two are addressed in this Bill. The recommendations also outlined the structures involved in managing power imbalances and gender inequality.

This Bill received scrutiny for formalising what many considered the basic expectations of behavioural conduct.

Specifically, the Bill will make amendments to ensure that reasons for termination of employment must be given in writing and to clarify that the existing legislative requirements apply to the termination of employment of Members of Parliament, and to clarify the duties parliamentarians owe under the Work Health and Safety Act 2011. The latter amendment responds to recommendation 17(c) of the Jenkins Report which was to clarify the work health and safety duties owed by parliamentarians in relation to their responsibilities for engaging with and managing staff. Amendments to the Age Discrimination Act 2004 and Disability Discrimination Act 1992 were made to clarify that these laws apply to staff employed or engaged under the MoP(S) Act as a response to recommendation 24 of the Jenkins Review.

A statement of acknowledgement was issued on 8 February 2022 from the Australian Parliament, acknowledging past indiscretions and vowing to improve workplace behaviour.

Since the change of government in May 2022, the new Minister for Women, The Hon. Katy Gallagher, has vowed to continue the implementation of the Jenkins Review. She declared that initiating the new workplace behaviour standards remains an imperative mission for the 47th Parliament. Labor began a reboot of the Jenkins Review in Gallagher's first week at her new post, after an implementation hiatus during the election. Independent Chair of the Parliamentary Leadership Taskforce, Kerri Hartland, has since provided monthly implementation updates.

The Bill received Royal Assent on 22 February 2022 after first passing the Senate on 10 February, and the House on 15 February.

Parliamentary Workplace Reform (Set the Standard Measures No. 1) Bill 2022

Criteria	Score	Analysis
1. Need	**Yes**	The Jenkins Review clearly outlined the necessity of the reforms through 28 significant recommendations, noting that parliaments across comparable jurisdictions have outlined the imperative for cultural reform—'ensuring safe and respectful parliamentary workplaces is essential to public confidence...This is Parliament. It should set the standard for workplace culture, not the floor of what culture should be.' These events formed part of the significant political groundswell that was generated by survivors and advocates Grace Tame and Brittany Higgins—such that the need for the policy was explicit and paramount.
2. Objectives	**Yes**	The Explanatory Memorandum clearly stated the policy's objective of addressing recommendations 17 and 24 from the Jenkins Review. Senator Jonathon Duniam outlined the policy objectives in terms of national interest during his second reading speech, stating that the bill 'would progress important and significant reforms to help ensure that Commonwealth Parliamentary Workplaces are workplaces where expected standards of behaviour are modelled, championed and enforced.' He continued to outline that respectful behaviour will be standard in the workplace, 'in which any Australian, no matter their sex, sexual orientation, gender identity, race, disability or age, feels safe and welcome to contribute.'

3. Options	**No**	The Jenkins Review provided 28 recommendations of policy responses. This Bill implemented just two—recommendations' 17 and 24. While this may imply that the other 26 recommendations were considered but rejected, we did not take this sufficient evidence to prove a rigorous process was undertaken to consider all recommendations.
4. Mechanisms	**No**	Despite a multitude of policy recommendations offered in the Jenkins review, there was no disclosure from the government of alternative implementation mechanisms to the three amendments which were adopted.
5. Analysis	**No**	There was no cost-benefit analysis between any comparative options for policies introduced. The Financial Impact Statement clarifies that this Bill will have no financial impact.
6. Pathway	**Yes**	The Jenkins Review provided a comprehensive policy pathway to improve parliamentary workplace standards. The Review included a section titled 'Framework for Action' which outlined several of the comprehensive design pathway features in detail. This included detailed implementation phasing.
7. Consultation	**No**	The Jenkins Review was comprehensive. It received over 900 submissions—including 302 written submissions, 490 interviews, and 11 focus groups—which then informed 28 recommendations. Nevertheless, the Jenkins review cannot be used as a basis to pass this criterion, as it took place prior to the formal policymaking process. As there was no evidence of consultation thereafter, this criterion has not been met.
8. Papers	**No**	There was no Green or White Paper associated with the Bill. It should be noted that there was significant public interest in the Independent Review but it was unclear whether public input influenced the possible options considered as well as the final policy decision.
9. Legislation	**Yes**	Policy initiatives amended existing legislation including the Members of Parliament (Staff) Act 1984, Work Health and Safety Act 2011, and the Age Discrimination Act 2004. The legislation passed with no amendments after debate.
10. Communication	**Yes**	The official media release from then Finance Minister The Hon. Simon Birmingham outlined the policy details in clear and concise terms.
Total	**5/10**	

New South Wales

The New South Wales Government's performance across the four chosen policies accumulated a score of 26/40. However, considering the narrow sample of policies per state, this is not necessarily a representative result. The main laggard for New South Wales was the Roads and Crimes Legislation Amendment Bill—which was hastily pushed through parliament without an analysis of options or implementation mechanisms, and no consultation or stakeholder input.

Given the contentious nature of the policy, the Voluntary Assisted Dying Bill scored strongly, as the equivalent bill did in Queensland. The Electric Vehicles (Revenue Arrangements) Bill, which introduces a distance-based road user charge for electric vehicles, is in line with the Zero and Low Emission Vehicle Distance-based Charge Bill in Victoria. This gives us the opportunity to almost directly compare these states and their performance against the Wiltshire Criteria with these bills.

It is worth noting that New South Wales Parliamentary sitting dates were considerably disrupted by the 2021 secondary waves of COVID-19. Whilst this may provide a supplementary reason for any expeditious legislative processes, sitting dates in October and November made up for the lost time.

Updates to New South Wales legislation

New South Wales has taken steps to address its laggard scores. Specifically, after receiving representations from the EBP Research Project, the New South Wales Legislative Council asked its Procedure Committee to explore whether…

> *…prior to its introduction in the Legislative Council, all highly contentious government legislation—defined as a Bill likely to substantially alter economic, employment, social, legal, or environmental conditions in New South Wales and to provoke widespread public interest in the proposed changes—be subject to a comprehensive and consultative Green and White Paper process, and a modified research and deliberative process be available for highly contentious private members' Bills to ensure that the intent and possible ramifications of the draft legislation are fully explored.*

The EBP Research Project made a further submission to the Procedure Committee in January 2020 stating:

> *We strongly believe that a Green and White Paper process should be an obligatory requirement for any contentious Bill introduced in the New South Wales Parliament. However, if the Procedures Committee cannot agree on a Standing or Sessional Order mandating this, we request that as a minimum requirement every major Bill be accompanied by a Statement of Public Interest (SPI).*

The Procedure Committee could not reach agreement on new Standing Orders to mandate the new processes. However, on 19 May 2022, the Leader of the Opposition in the Legislative Council, Penny Sharpe, moved a motion from the floor of the Council with the support of all party leaders to approve a sessional order. The order applied to all government bills and directed the Selection of Bills committee to report whether a given bill is accompanied by a Statement of Public Interest (SPI). An SPI would answer six fundamental questions that MPs and the public are entitled to know before a bill is considered:

- **Need**: Why is the policy needed based on factual evidence and stakeholder input?
- **Objectives**: What is the policy's objective couched in terms of the public interest?
- **Options**: What alternative policies and mechanisms were considered in advance of the Bill?
- **Analysis**: What were the pros and cons and benefits and costs of each option considered?
- **Pathway**: What are the timetable and steps for the policy's rollout and who will administer it?
- **Consultation**: Were the views of affected stakeholders sought and considered in making the policy?

Thereafter, the New South Wales Premier issued a memorandum directing all agencies and ministers to prepare an SPI for all government bills.

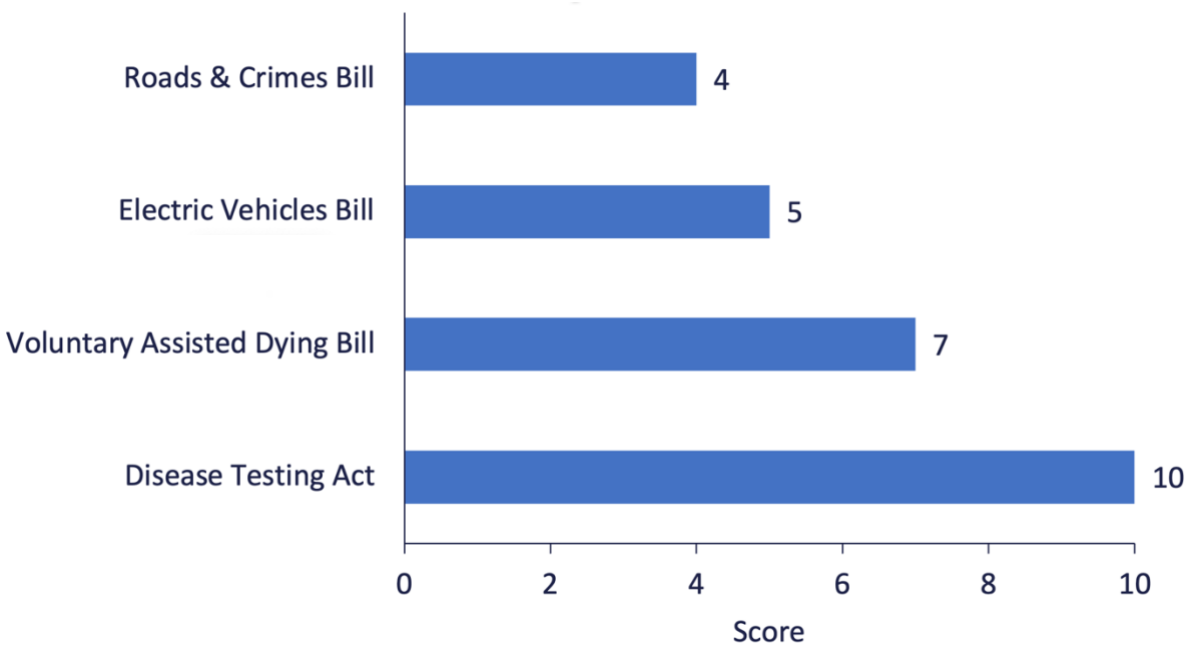

Figure 2 New South Wales Bills scorecard
Source: Blueprint Institute Analysis, Evidence-Based Policy Research Project

9. Roads and Crimes Legislation Amendment Bill 2022

The Roads and Crimes Legislation Amendment Bill 2022 (the Bill) legislates harsher punishments for protestors who demonstrate on major roads or facilities, in a way that obstructs the liberties of others, without prior approval. The Bill mandates a $22,000 maximum penalty and/or two years imprisonment.

Rating: Unacceptable (4/10)

Policy overview

The Bill received Royal Assent in New South Wales Parliament on 1 April 2022.

This Bill amends both the Roads Act 1993 and the Crimes Act 1900. Its first part makes it an offence if a person enters, remains on, climbs, jumps from or otherwise trespasses on a major road, where the conduct either causes damage to the road, or seriously disrupts or obstructs vehicles or pedestrians attempting to use the road. The offence carries a maximum penalty of a $22,000 fine or two years imprisonment. For the Crimes Act, another similar offence, carrying the same penalty, was created to cover public transport facilities, railway stations, ports and infrastructure facilities. The Minister is required to conduct an independent review of the legislation as soon as possible two years after the proposed Act has commenced.

Attorney General The Hon. Mark Speakman argued that the new measures were not a restriction on protesting in and of itself, but merely a stricter measure to prevent protests that obstruct the free movement of others. He was also clear in his intentions to avoid trivialising the causes of the protests, and noted the legitimacy of the recent climate change protests—which were considered one of the catalysts for the Bill. He was adamant that fighting climate change requires action at the individual, community, and government levels to reduce emissions—and that protests of the nature covered by the Bill would not aid in the cause.

Substantive, albeit brief, debate ensued in both Houses. In the Legislative Assembly, the Opposition supported the Bill, but felt that the policy process was compromised—stating that they would have preferred a longer deliberation period and the opportunity for meaningful stakeholder engagement. The Greens opposed the Bill on the grounds that it was too much of an encroachment on the right to protest and the freedom of speech. MP Ms Jenny Leong, on behalf of the Greens, claimed the bill was attempting to criminalise those trying to influence positive change, pointing to protestors seeking greater action against climate change, improvements to public health, and racial and gender equality.

The Greens were also critical of the expeditious nature of the parliamentary process, citing that there was no reason for the Bill to be 'rammed through the chamber' without due process.

Roads and Crimes Legislation Amendment Bill 2022

Criteria	Score	Analysis
1. Need	**Yes**	Attorney General Speakman's second reading speech outlined how the severity of the existing penalties in place was not sufficient in deterring unlawful protesting behaviour. He stated that beyond traffic delays and economic loss, some protestors had put themselves, and emergency services personnel, in danger. The existing legislation does not carry significant penalties for this, he continued, and more must be done to deter illegal protesting that causes significant disruption to New South Wales residents.
2. Objectives	**Yes**	The Explanatory Memorandum outlined the Bill's objectives: to design and implement policies to prevent offences that cause damage or disruption to major roads or facilities.
3. Options	**No**	The second reading speech referred to comparable offences, but there was no evidence to suggest that alternative or existing measures were formally considered as alternative options.
4. Mechanisms	**No**	There was no disclosure of other implementation methods considered for the Bill.
5. Analysis	**No**	There was no technical data, working assumptions or mathematical modelling behind the chosen policy. However, it should be noted that the nature of the Bill is not economic to the degree that it requires quantitative modelling.
6. Pathway	**Yes**	The amendments took immediate effect as modification to existing Acts. Additionally, the new offences are subject to Ministerial review after two years.
7. Consultation	**No**	There was no evidence of stakeholder or representative input to any meaningful degree, before or after the policy decision.
8. Papers	**No**	There was neither a Green Paper nor White Paper associated with the Bill.

9. Legislation	**No**	Although the Bill amends existing legislation and passed after debate, there was criticism about the unnecessarily expedited parliamentary process. Despite supporting the Bill, the Opposition found that the policy process was compromised and would have benefited from a longer deliberation period that allowed for stakeholder consultation. The Greens were more critical of the expedited process, arguing that there were no grounds for the Bill to be 'rammed through the chamber'. The policy process did not allow for public input.
10. Communication	**Yes**	The New South Wales Liberal Party website published a media release which announced the Bill and explained its details clearly.
Total	**4/10**	

10. Voluntary Assisted Dying Bill 2021

The Voluntary Assisted Dying Bill 2021 (the Bill) provides the right for certain terminally ill persons to request and receive assistance to end their lives voluntarily, with the help of medical professionals, by the administration of a lethal substance.

Rating: Acceptable (7/10)

Policy overview

The Bill was introduced in the Legislative Assembly on 14 October 2021 and received Royal Assent on 27 May 2022. Substantial changes were made to the original Bill after the Legislative Assembly, over eight days and more than 30 hours, extensively considered the details of the legislation.

The Bill defines Voluntary Assisted Dying as 'the administration of a voluntary assisted dying substance and includes steps reasonably related to that administration' (Schedule 1). The Bill aims to:

(a) enable eligible persons with a terminal illness to access voluntary assisted dying, and;
(b) establish a procedure for, and regulate access to, voluntary assisted dying, and;
(c) establish the Voluntary Assisted Dying Board and provide for the appointment of members and functions of the Board.

Furthermore, a person who dies as the result of the administration of a prescribed substance in accordance with the Act does not die by suicide (clause 12) and the Bill is to commence 18 months after the date of assent (clause 2).

Parts two and three of the Bill encompass the requirements for access to voluntary assisted dying and assessment of eligibility. Clause 16 of the Bill sets out the eligibility criteria that must be met before a person can access Voluntary Assisted Dying. Specifically, a person must:

- be 18 years old or over;
- be an Australian citizen, permanent resident, or a resident for at least three years. They must have been ordinarily resident in New South Wales for 12 months before making a request;

- be diagnosed with at least one disease, illness or medical condition that is advanced, progressive and will cause death, most likely within six months (or 12 months in the case of a neurodegenerative disease, illness or condition), that is causing suffering that cannot be relieved in a way considered by the person to be tolerable;
- have decision-making capacity in relation to VAD;
- be acting voluntarily and without pressure or duress; and
- the request must be enduring.

Part six of the Bill provides that the Supreme Court may review certain administrative decisions, including a decision that a person does not have decision-making capacity, is not acting voluntarily, or is acting because of pressure or duress (clause 109).

The introduction of the Bill was the third time in almost nine years that similar bills have been debated in New South Wales. Most recently, a Voluntary Assisted Dying Bill 2017 was introduced in the New South Wales Legislative Council, and was defeated by one vote.

Following its passage through Parliament, the Bill received Royal Assent on 27 May 2022.

Voluntary Assisted Dying Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	There was a clear statement of need established during The Hon. Adam Searle, MLC's second reading speech. He argued 'terminally ill persons should have the right to choose a dignified end to their life. The alternative, which we now have, is that many are condemned to suffer extreme and often prolonged physical and psychological pain.' This statement is supported by the findings of the inquiry on the provisions of the Bill conducted by the Standing Committee on Law and Justice. In its submission to that inquiry, the New South Wales Nurses and Midwives' Association confirms the horrific impact of terminally ill sufferers committing suicide without the aid of medical professionals. Moreover, a 2016 survey by the Australian Medical Association (AMA) found a majority of doctors reported that treating patients with palliative care did not help them, which is consistent with evidence given to the Law and Justice Committee inquiry. Furthermore, the AMA released a position statement which included the following, 'All dying patients have the right to receive relief from pain and suffering, even where this may shorten their life.'
2. Objectives	**Yes**	Adam Searle, MLC, in his second reading speech, outlined that the objective of the Bill is to grant terminally ill people the right to make a choice about how they live in the final stages of their lives, and how and when they wish to die when death is already certain.
3. Options	**No**	No alternative policy options were identified for this Bill.
4. Mechanisms	**No**	Although the government conducted a comparison of the Bill with legislation in other states, it was done after the Bill was introduced to parliament.
5. Analysis	**No**	No such information was publicly available.
6. Pathway	**Yes**	There was a comprehensive policy design framework including; principles, goals, delivery mechanisms, ongoing evaluation mechanisms, and reporting requirements.
7. Consultation	**Yes**	Alex Greenwich, the independent Member for Sydney, released a draft Voluntary Assisted Dying Bill 2021, allowing for a period of consultation with his parliamentary colleagues and key stakeholders before he introduced the Bill into New South Wales Parliament.

8. Papers	**Yes**	There was a Legislation Review Digest clearly explaining the Voluntary Assisted Dying Bill 2021. There was also an inquiry by the Standing Committee on Law and Justice into the Bill which generated significant public engagement. The committee received around 39,000 responses to an online questionnaire, in addition to 3,070 submissions and three supplementary submissions, of which 107 were published. The committee also held three days of public hearings and heard from over 75 witnesses. There was also a page on the government website explaining the final policy decision and process.
9. Legislation	**Yes**	The legislative process was extensive.
10. Communication	**Yes**	Although brief, a page on the New South Wales Health website clearly explicates the Bill.
Total	**7/10**	

11. Mandatory Disease Testing Bill 2020 No.13

The Mandatory Disease Testing Bill 2020 (the Bill) aims to initiate mandatory blood testing of an individual in certain situations where the person's bodily fluid comes into contact with a public sector worker.

Rating: Excellent (10/10)

Policy overview

The Bill is defined as intending to provide for mandatory blood testing of a person in circumstances where the person's bodily fluid comes into contact with a health, emergency, or public sector worker as a result of the person's deliberate action and the worker may be at risk of contracting a bloodborne disease.

Confrontational situations can be a routine part of the job for police officers, emergency services personnel, and other frontline workers such as healthcare professionals and correctional officers. As such, frontline workers can be exposed to bodily fluids of others, giving rise to the risk of transmission of blood-borne diseases such as HIV, Hepatitis B or Hepatitis C. Under previous legislation, following a situation where a patient's bodily fluid may have come into contact with a New South Wales Health worker, the patient would be asked to consent to disease testing but '[could not] be obliged to provide a sample'.

The Mandatory Disease Testing Bill 2020 implemented recommendation 47 of the final report by the Legislative Assembly Committee on Law and Safety (the Committee).

However, the recommendation also included the acknowledgement that the proposed legislation raises complex issues and 'requires further consultation with all affected stakeholders, particularly health, legal and privacy experts.' During this consultation period concerns were raised and six organisations (ACON; Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine; Hepatitis New South Wales; New South Wales Users and AIDS Association; Positive Life New South Wales and the Sex Workers Outreach Project) wrote to the Committee opposing it.

One particular concern was that the legislation was inconsistent with up-to-date medical advice surrounding the transmission of bloodborne viruses. For example, a statement from the Australian Medical Association outlined that, 'there is no clinical rationale for mandatory disease testing.' In response to this opposition, the Police Association of New South Wales (PANSW), who first proposed mandatory disease testing, identified scenarios in which police are clearly

exposed to the risk of bloodborne viruses, including, 'where they are stabbed with needles, or where offenders apply blood to officers so that it comes into contact with broken cuts.'

Another area of concern that was highlighted was the risk the legislation may increase discrimination and stigma against people with bloodborne viruses, and thus stop them from engaging with health services. However, PANSW responded by outlining the proposal would be carefully drafted to 'ensure no group would be unfairly targeted.' The mandatory disease testing would also only be utilised under specific circumstances and accompanied by strict confidentiality criteria.

Following consultation, the Committee considered that a number of other issues would need to be addressed. Despite opposition by certain organisations, the Bill was introduced on 11 November 2020 and following its passage through Parliament, the Bill received Royal Assent on 17 June 2021.

In the Bill, a ***mandatory testing order*** means an order that requires the third party in relation to whom the order is made to:

(a) attend the place specified in the order as soon as practicable but no later than two business days after being served with the order, and
(b) provide the third party's blood to be tested for bloodborne diseases, and
(c) authorises the third party's blood to be tested for the bloodborne diseases specified in the order.

The Explanatory Notes outline that the scheme only applies to those who are 14 years of age or older. For those who are at least 14 but under 18 years of age, an order is made by the Children's Court. For those who have a mental health or cognitive impairment, an order is made by the Local Court and for all others, an order is made by the worker's senior officer, who is usually the head of the agency that employs the worker.

However, if there is failure to comply with the mandatory testing order, without reasonable excuse, then the maximum penalty is 100 penalty units—currently $11,000 or imprisonment for 12 months, or both.

Mandatory Disease Testing Bill 2020 No. 13

Criteria	Score	Analysis
1. Need	**Yes**	The Bill implements recommendation 47 of the final report by the Legislative Assembly Committee on Law and Safety following its inquiry into violence against emergency services personnel. However, the Committee suggested that because the proposal of mandatory disease testing raised complex issues, there should be further consideration by the New South Wales government and that it 'requires further consultation with all affected stakeholders, particularly health, legal and privacy experts.' While reviewing such consultation, a lack of evidence was found for the need of the Bill. For example, a statement from the Australian Medical Association outlined that, 'there is no clinical rationale for mandatory disease testing'. However, in response, the Police Association of New South Wales, who first proposed mandatory disease testing, identified scenarios in which police are clearly exposed to the risk of bloodborne viruses. Thus, while contested, need was established.
2. Objectives	**Yes**	The Bill's objectives were contextualised in terms of the public interest during The Hon. David Elliott's second reading speech. He explains that the objective of the Bill is to protect police officers, emergency services personnel, and other frontline workers who are often involved in confronting situations.
3. Options	**Yes**	The New South Wales government released an options paper in September 2018. The paper outlined four options for reform.
4. Mechanisms	**Yes**	Within the options paper, there was disclosure of various alternative ways considered for implementing the policy.
5. Analysis	**Yes**	Also within the options paper, we found sufficient evidence of published analysis including disclosure of; the economic impacts and pros, and cons of mandatory disease testing.
6. Pathway	**Yes**	There was a thorough plan designed for the policy's rollout, including: principles, goals, delivery mechanisms, the implementation process and phases, performance measures, reporting requirements, and a review process.
7. Consultation	**Yes**	The Standing Committee on Law and Justice in the New South Wales Legislative Council held public hearings for its inquiry into the Mandatory Disease Testing Bill 2020 on 11 and 12 February 2021. The committee heard from unions representing affected workers, public health advocacy organisations, medical and legal specialists, academics, and relevant government agencies. Furthermore,

		on 17 November 2020, there was a public call for submissions. During this time the committee received 27 submissions from interested unions, community organisations, academics, and professional associations, as well as the New South Wales Police.
8. Papers	**Yes**	There was a Green Paper seeking public input and a Legislation Review Digest.
9. Legislation	**Yes**	The Bill was introduced on 11 November 2020 and passed following extensive debate and amendments being made on 17 June 2021.
10. Communication	**Yes**	There is a page on the New South Wales government website explaining the Mandatory Disease Testing Scheme in simple, clear, and factual terms.
Total	**10/10**	

12. Electric Vehicles (Revenue Arrangements) Bill 2021

The Electric Vehicles (Revenue Arrangements) Bill (the Bill) passed as part of the New South Wales Electric Vehicle Strategy. The Bill relieves EV purchasers of stamp duty and establishes a distance-based road user charge to cover revenues lost from the fuel excise.

Rating: Mediocre (5/10)

Policy overview

The Electric Vehicles (Revenue Arrangements) Bill 2021 passed in New South Wales parliament on 12 October 2021 after first being introduced on 22 June 2021. This Bill was introduced as a cognate Bill with the Appropriation Bill (2021) and several others which gave effect to the 2021-22 New South Wales State Budget; but a motion was passed to separate the Appropriation Bill from the Electric Vehicles (Revenue Arrangements) Bill. Then, a further motion was passed on 20 October 2021 to separate the Electric Vehicles (Revenue Arrangements) Bill 2021 from the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 and the New South Wales Generations Funds Amendment Bill 2021.

The two objectives of the Bill were to:

- impose a distance-related road user charge on registered operators of certain zero- and low-emissions vehicles, and;
- exempt certain zero- and low-emissions vehicles from the payment of duty under the Duties Act 1997, Chapter 9.

One part of the Bill was introduced to exempt certain electric vehicles from stamp duty—as part of the New South Wales Government's Electric Vehicle Strategy. This incentive is designed to make the price of new electric vehicles more competitive. According to the New South Wales Electric Vehicle Strategy, the cost of stamp duty in New South Wales is currently $3 per every $100 for cars under $45,000, and $135 plus $5 per every $100 for cars above $45,000. Removing this inefficient tax is expected to increase the uptake in EVs.

Distance-based road charges are a policy measure that state governments have begun to implement to cover road usage costs and constrain congestion—essentially to offset fuel excise levies as more drivers convert to EVs. The Bill will ensure that all road users are contributing to the costs of road maintenance.

Electric Vehicles (Revenue Arrangements) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The second reading speech in the Legislative Council by The Hon. Scott Farlow outlined how the Bill was an integral part of the New South Wales Electric Vehicle Strategy. He states that 'for a fiscally responsible government, it is also important to ensure that revenue for the long-term funding of roads remains adequate.' This was so the state could maintain revenue for road expenditure, as 'currently New South Wales partly depends on road funding from the Commonwealth, which collects excise on fuel.
2. Objectives	**Yes**	The Bill clearly stated that the objective of the act was 'to establish a system of distance-related road user charges for persons who use certain zero and low emissions vehicles; and to amend the Duties Act 1997 to exempt certain zero and low emissions vehicles from the payment of duty under Chapter 9 of that Act.'
3. Options	**No**	There were no disclosed considerations of alternatives, nor was there any public documentation outlining alternative policy arrangements within the Electric Vehicle Strategy that specifically relate to stamp duty or the road user charge.
4. Mechanisms	**No**	There was no disclosure of the alternative implementation mechanisms for the stamp duty abolishment design or the road user charge.
5. Analysis	**No**	There was no published cost-benefit analysis or other analysis available which looked at alternatives, as there were no alternative options or mechanisms discussed.
6. Pathway	**Yes**	The Bill covered two parts of the New South Wales Government's Electric Vehicle Strategy—a comprehensive suite of Electric Vehicle policies. The Strategy outlined its principles, goals, delivery mechanisms, and implementation phases clearly and is a sound policy design framework.
7. Consultation	**No**	There was no evidence of consultation with affected stakeholders after the policy was announced.

8. Papers	**No**	There was no evidence of any Green or White Paper associated with this Bill. Previously, a 2002 Green Paper titled 'Auslink: towards the national land transport plan' presented findings that advocated for congestion pricing—but there was no evidence that this was related to the Bill in any way.
9. Legislation	**Yes**	The Bill amended the Duties Act 1997 (Chapter 9) to exempt certain zero-and low-emissions vehicles from the payment of duty. The Bill was introduced as part of the Budget, but was separated and debated in isolation, and passed with amendments.
10. Communication	**Yes**	An official media release outlined the stamp duty rebate in clear terms. Information about the distance-based road user charge was limited to a brief explanation on this government website which was an extension of the New South Wales government's Electric Vehicle Strategy—which is explained clearly and in detail on another government website.
Total	**5/10**	

Victoria

Victoria, along with New South Wales, received a cumulative score of 24/40, which is a Mediocre level overall. Once again, all of the chosen policies failed to include adequate analysis between potential alternative options and mechanisms of implementation—a trend consistent across the project. Policymakers are failing to consider, or disclose consideration of viable options and evidence as to why the final policy, and its design and rollout, were chosen. The Sex Work Decriminalisation Bill 2021 scored well across the criteria, achieving an Acceptable standard of evidence based reform. The ZLEV Distance-based Charge Bill legislated a road user charge for EV's, similar to the Revenue Arrangements Bill in New South Wales. Victoria did not have a policy that received an unacceptable score.

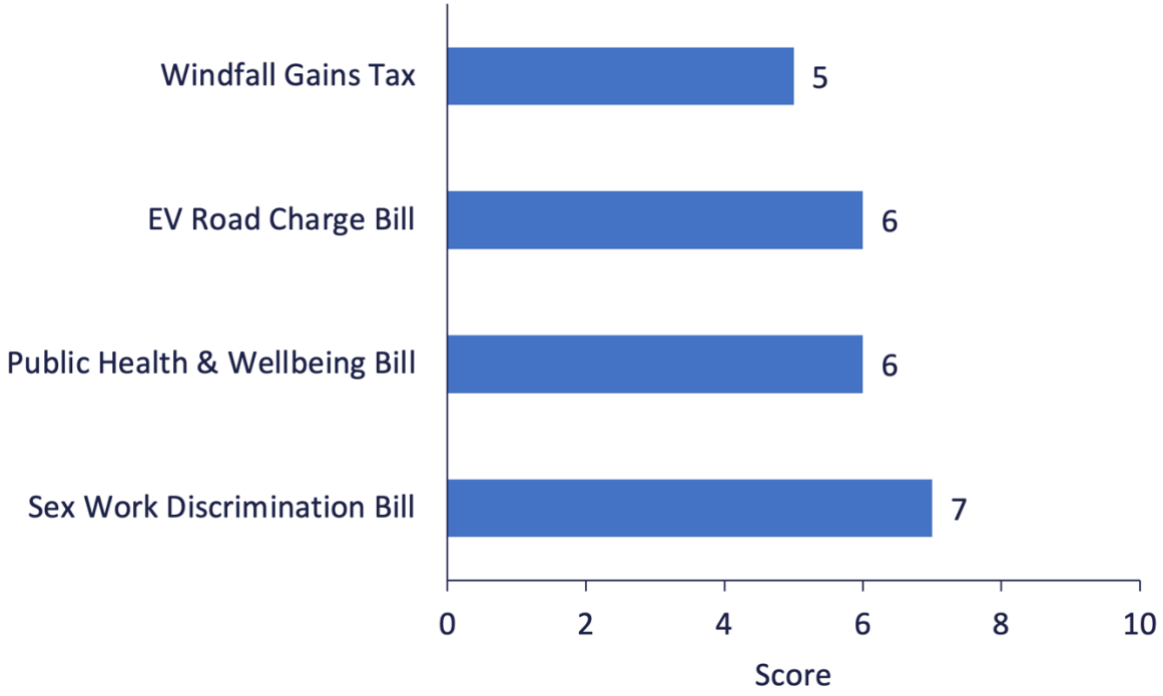

Figure 3 Victoria Bills scorecard

Source: Blueprint Institute Analysis, Evidence-Based Policy Research Project

13. Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021

The Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021 (the Bill) aims to create a targeted, fit-for-purpose regulatory framework that supports 'transparent and accountable government action' to keep Victorians safe during pandemics.

Rating: Mediocre (6/10)

Policy overview

The enormous effect of the COVID-19 pandemic on communities is unquestionable, and it forced governments to make urgent, difficult, and high-stake trade-offs. Despite attempts to best manage the pandemic by the Chief Health Officer and the Victorian government, thereby almost certainly preventing many deaths, the physical, mental, and social health of Victorians has been seriously jeopardised—Melbourne in particular, having endured the world's longest lockdown.

The following legislation, introduced 26 October 2021, is the first of its kind in Australia and is specifically designed to assist in the reduction of public health risk caused by pandemics.

The Bill fills the gap left by the expiry of the State of Emergency scheme and makes major reforms, including a new Part 8A, to the Public Health and Wellbeing Act 2008, which limits the duration of State of Emergency declarations. Over the course of the pandemic, the State of Emergency Scheme's 'maximum duration' was extended multiple times in response to the ongoing risk posed by COVID-19. However, such a strategy reached its limit late last year, on 15 December 2021. New legislation altogether would be needed in order to extend the State of Emergency beyond that date.

New legislation also offered ancillary benefits in providing an opportunity to apply lessons gleaned from the COVID-19 experience to improve the regulatory framework. As The Hon. Martin Foley (former Minister for Health, Minister for Ambulance Services, Minister for Equality) outlined, during his second reading speech, the Bill is 'built on many lessons from the management of the COVID-19 pandemic in Victoria, Australia and around the world over almost two years.'

The main purposes of this Bill are:

- to amend the Public Health and Wellbeing Act 2008 in relation to the effective management of pandemics; and
- to amend the Public Health and Wellbeing Act 2008 in relation to fees for detention of persons in quarantine during the COVID-19 pandemic; and
- to amend the infringements Act 2006 to broaden the scope of what constitutes special circumstances in that Act; and
- to make amendments to other Acts.

The Bill received Royal Assent on 7 December 2021. The Bill was treated as an Urgent Bill pursuant to Standing Order 14.34.

Public Health and Wellbeing Amendment (Pandemic Management) Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The State of Emergency scheme could not be extended beyond 15 December 2021, hence the need for new, pandemic-specific legislation. Furthermore, during Mr Foley's second reading speech he outlined that 'with all epidemiological evidence indicating that the threat and unpredictability of COVID-19, while declining, will remain in our community for some time, new legislation is essential.' He goes on to explain, during his second reading speech, that 'knowledge shared by community leaders has been crucial to the design of this Bill. The Government has engaged extensively with some of the most trusted leaders in public health, administrative law, human rights and policymaking.' The pandemic management model outlined in the Bill is also based on approaches in other jurisdictions that have effectively managed the COVID-19 pandemic, including New Zealand.
2. Objectives	**Yes**	The Explanatory Memorandum outlines that the main objective of the Bill is to 'protect public health and wellbeing in Victoria by establishing a regulatory framework for preventing and managing the serious risk to life, public health and wellbeing presented by the outbreak or spread of pandemics and diseases of pandemic potential.'
3. Options	**Yes**	As outlined above, during Mr Foley's second reading speech, he discussed why the Bill and new pandemic-specific legislation was needed, instead of continuing to rely on the State of Emergency framework. The government believed the introduction of new legislation would implement the lessons Victoria has learned and would significantly improve the regulatory framework available to keep Victorians safe in the event of future pandemics.
4. Mechanisms	**No**	No disclosure of alternative mechanisms were publicly available.

5. Analysis	**No**	No such analysis was publicly available.
6. Pathway	**Yes**	There was a detailed implementation strategy for the policy decision.
7. Consultation	**Yes**	The government engaged extensively with 'leaders in public health, administrative law, human rights, and policymaking' during the design of this Bill. Moreover, part of the Bill includes consultation requirements for both the Premier and the Minister to seek and consider the advice of the Chief Health Officer in making a pandemic order, and the advice of the Chief Health Officer must be made available to Parliament and the public.
8. Papers	**No**	While a series of submissions were made in relation to the proposed Bill, we were unable to locate a Green or White Paper or a like process
9. Legislation	**No**	The Bill was rushed through Parliament and the urgency of the Bill was unclear.
10. Communication	**Yes**	There was a media release explaining the Bill in simple terms, issued by The Victorian Equal Opportunity and Human Rights Commission, on 30 November 2021.
Total	**6/10**	

14. Sex Work Decriminalisation Bill 2021

The Sex Work Decriminalisation Bill's (the Bill) main objective is to recognise sex work as a legitimate form of work, abolish the sex work licensing system, and regulate sex work businesses through mainstream regulators already in place, such as WorkSafe, the Department of Health, Victoria Police, and local governments.

Rating: Acceptable (7/10)

Policy overview

The Sex Work Decriminalisation Bill 2021 was introduced on 12 October 2021. Prior to the Bill being introduced, sex work in Victoria was regulated under the Sex Work Act 1994. Sex work that occurred outside of this system was illegal. According to then Minister for Consumer Affairs, Gaming, and Liquor Regulation Melissa Horne's second reading speech, 'The Sex Work Decriminalisation Bill recognises that sex work is a legitimate form of work. The Bill will support sex workers' safety and rights and ensure that sex work is safe work.'

The changes to the sex work legislation in Victoria were informed by a review led by Fiona Patten MP. The review included a wide range of stakeholder consultation, including; sex workers, sex worker peer organisations, legal, health, and education support service providers, commercial operators and industry organisations, workplace safety agencies, local and federal government agencies, law enforcement agencies, and other community and expert organisations.

While carrying out the review, Ms Patten was asked by the Victorian government to consider:

- All forms of sex work;
- Workplace safety, including health and safety issues and stigma and discrimination against sex workers;
- Regulatory requirements for operators of commercial sex work businesses;
- Enforcement powers required to address criminal activity in the sex work industry;
- Local amenity and the location of premises providing sexual services and street-based sex work;
- The promotion of public health and appropriate regulation of sex work advertising;

- The safety and wellbeing of sex workers, including the experience of violence that arises in the course of sex work and as a consequence of it, and worker advocacy for safety and wellbeing;
- The process of decriminalising sex work in other jurisdictions, for example, New Zealand and other Australian states and territories.

Following careful consideration of the review, the government decided to decriminalise sex work in Victoria.

This will mean that criminal penalties for consensual sex work will be removed in most cases, including abolishing offences for street-based sex work in most locations and repealing public health offences associated with sex work. In addition to this, decriminalising sex work will mean revoking the Sex Work Act and instead regulating the sex work industry through existing regulatory agencies. Finally, it will mean rolling out related reforms to support decriminalisation. For example, public health and anti-discrimination laws.

The decriminalisation process will occur in two stages to allow time to transition to a different model of regulation:

1. 10 May 2022: reforms affecting street-based sex work and independent sex work.
2. 1 December 2023: repeal the Sex Work Act 1994 Act, with crimes relating to children and coercion being moved to other acts. Sex work premises will be allowed to operate under a new regulatory system.

The Bill also provides for a review of the operation of the amendments no later than five years after Stage Two commences.

During the second reading speeches, the Opposition, Ms Britnell and Mr Ondarchie, moved reasoned amendments. However, these were debated and defeated, and the Bill moved to the Legislative Council, where minor amendments were agreed to. The Bill finally received Royal Assent on 1 March 2022.

Sex Work Decriminalisation Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	A statement of need was clearly established during Minister Horne's second reading speech, when she outlined that, 'destigmatising the sex work industry and reducing discrimination is essential for protecting people working in the industry and shifting public perceptions of sex work.' Furthermore, in November 2019, the Victorian government asked Fiona Patten MP to lead a review on decriminalising sex work in Victoria that consulted a range of stakeholders. Following this review and after careful consideration, the Government decided to decriminalise sex work in Victoria.
2. Objectives	**Yes**	The objectives of the Bill were clearly established. During Ms Horne's second reading speech, she outlined that the Bill will support sex workers' safety and rights, and ensure that sex work is safe work. Furthermore, the main objective of the Bill is to abolish the sex work licensing system and regulate sex work businesses through mainstream regulators, such as WorkSafe, the Department of Health, Victoria Police and local governments.
3. Options	**No**	Although the previous legislative framework was the Sex Work Act 1994, the Bill makes no disclosure of alternative policy options considered.
4. Mechanisms	**No**	Following consultation and feedback from Victorians on the proposed implementation mechanism for decriminalisation, the government made changes to have regulation managed through existing specialist agencies, such as WorkSafe, the Department of Health, and local governments. The state government will also introduce a new public health and infection control framework for the sex work industry, focused on health promotion and harm reduction. However, the government did not disclose the alternative ways considered prior to these changes.
5. Analysis	**No**	No such analysis was publicly available.
6. Pathway	**Yes**	There is a comprehensive two-stage plan for implementing the policy, including plans for a review of the operation of the amendments no later than five years after stage two commences.

7. Consultation	**Yes**	In August 2021, the Victorian government undertook public consultation on the proposed model for the decriminalisation of sex work in Victoria. From this, the government received 698 contributions to the Engage Victoria online survey and 159 written submissions, and online consultations with key stakeholder groups, comprising over 101 participants. Most contributions supported decriminalising sex work in Victoria. The feedback and issues raised were used to inform implementation of the decriminalisation of sex work in Victoria.
8. Papers	**Yes**	There was a Green Paper seeking public input, which resulted in changes to the Bill prior to it being introduced to parliament. The Premier Daniel Andrews also issued a statement clearly outlining the policy decision before the Bill was introduced.
9. Legislation	**Yes**	The Bill was introduced on 12 October 2021 and passed following extensive debate and amendments being made on 1 March 2022.
10. Communication	**Yes**	There was a page on the Victorian government's website, clearly explaining the Sex Work Decriminalisation Act 2022. There was also a media release by Premier Daniel Andrews, as well as a page on the WorkSafe Victoria website explaining the Act.
Total	**7/10**	

15. Zero and Low Emission Vehicle Distance-based Charge Bill 2021

The Zero and Low Emission Vehicle Distance-based Charge Bill (the Bill) establishes a road user charge for Victorian EV drivers, proportional to distance travelled, at 2.5 cents/km. The Bill is a similar initiative to the New South Wales Electric Vehicles (Revenue Arrangements) Bill outlined earlier in this paper.

Rating: Mediocre (6/10)

Policy overview

The Zero and Low Emission Vehicle Distance-based Charge Bill passed in Victoria in June 2021 after being first introduced on 17 March 2021. The Bill puts in place a charge that will apply to zero- and low-emission vehicle owners as a per-kilometre levy to cover road usage costs. From 1 July 2021, electric and other zero-emission vehicles, including hydrogen vehicles, would be subject to a 2.5 cent/km road user charge. Plug-in hybrid electric vehicles would be charged 2.0 cent/km. Victorian Treasurer Tim Pallas stated that this would equate to, from an average total yearly distance of 13,100 km for light passenger vehicles, $330 per year for EV owners, and $260 for plug-in hybrid EV's—a fraction of what consumers would pay in fuel excise with similar distance estimates. This means that on average, EVs would be subject to lower road user charges than all other vehicles. After a year, the road user charge rates would increase by 0.1 cents to 2.6 cents/km and 2.1 cents/km respectively.

This Bill is one policy proposed in Victoria's Zero Emission Vehicle (ZEV) Roadmap—a $100-million commitment from the Victorian government to encourage the uptake of zero-emissions vehicles. These initiatives will help reach the Victorian government's objective to ensure that 50% of new light vehicle sales will be zero emission vehicles by 2030.

Victoria became the first state to legislate a road user charge, and New South Wales followed by passing the Electric Vehicles (Revenue Arrangements) Bill in June 2021. South Australia implemented their own in November 2021. However, in May 2022, the new Malinauskas-led Labor government moved to repeal the tax in South Australia.

The ZEV Expert Advisory Panel was established for consultation to advise the government on how to achieve the ZEV Roadmap's 2030 targets. The panel received various stakeholder submissions for consideration. AGL stated concerns that the road user charge risked undermining business confidence and investment in the emerging market that was required for the transition towards electrification. This was a significant decision, as it would affect investment

in charging infrastructure, fleet transition, and grid integration—all of which were imperatives outlined in the ZEV Roadmap. The Bill moved through the Legislative Assembly after debate before the Greens proposed amendments to repeal the Bill in the Legislative Council. After being referred to the Committee as a whole, the Bill passed in the Legislative Council with no amendments.

Zero and Low Emission Vehicle Distance-based Charge Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The need for the Bill, as outlined in the ZEV Roadmap, was to introduce 'a road user charge for low-and-zero-emissions vehicles to more equitably fund roads and optimise their usage in the absence of fuel excise raised on hydrocarbon fuels.'
2. Objectives	**Yes**	The Explanatory Memorandum identified that the purpose of the Bill was 'to require registered operators of zero- and low-emission vehicles (ZLEVs) to pay a charge for the use of vehicles on certain roads (ZLEV charge).' In his second reading speech in the Legislative Assembly, Victorian Treasurer and Member for Werribee Tim Pallas acknowledged the Bill as an integral policy to ensure Victoria's prosperity in a low-carbon economy. He believed these vehicles would play an important role in the state's reduction in carbon emissions, and the Bill would establish a fair and sustainable framework for Victoria's future of transport.
3. Options	**No**	We were unable to locate any documentation that disclosed alternative policy options to the road user charge. The ZEV Roadmap alluded to a range of alternative policy options, but because there was no clear evidence to show consideration of those options, we were unable to issue a passing grade..
4. Mechanisms	**No**	There was no evidence of any consideration of alternative policy implementation mechanisms for the road user charge.
5. Analysis	**No**	There was no formal analysis of the economic costs and benefits of the road user charge, nor a comparison between the charge and the status quo.

6. Pathway	**Yes**	The road user charge had an adequate rollout pathway and a clear implementation design, which came into effect three months after it passed in parliament. The ZEV Roadmap offered a comprehensive rollout plan of a $100-million fiscal package to accelerate the transition to the zero-emissions vehicle network. The road user charge is one feature of the Roadmap.
7. Consultation	**Yes**	The ZEV Expert Advisory Panel was established after the Bill was introduced, to provide consultation on further policies, programs, and investments for Victoria's zero-emissions vehicle strategy and ensure Victoria meets its 2030 emissions target. The panel received numerous submissions from industry stakeholders and relevant affiliates. For example, AGL offered a public submission to the expert panel and advocated against the road user charge. Infrastructure Partnerships Australia also provided a 30-page submission to the expert panel advocating for the road user charge.
8. Papers	**No**	Neither a Green Paper nor a White Paper was associated with this Bill.
9. Legislation	**Yes**	The Bill passed after debate in both houses with no substantial amendments, despite opposition from the Greens.
10. Communication	**Yes**	The VicRoads government website explains the zero- and low-emissions vehicle distance-based charge in simple and clear terms.
Total	**6/10**	

16. Windfall Gains Tax and State Taxation and Other Acts Further Amendment Bill 2021

The Windfall Gains Tax and State Taxation and Other Acts Further Amendment Bill 2021 (the Bill) passed in Victoria, legislating a range of tax reforms that formed part of the 2021-22 State Budget. The Bill ensures landowners that accrue significant windfall gains as a result of government rezoning pay an adequate tax on those gains. Changes to land tax benefits and exemptions, and a new point-of-consumption framework for the taxation of Keno in the state were some of the initiatives introduced under the reformed legislation.

Rating: Mediocre (5/10)

Policy overview

The Bill introduced a host of new tax reforms outlined in the Victorian State Budget of 2021-22. It was introduced in the Legislative Assembly on 12 October 2021 and given Royal Assent on 30 November. Specifically, the Windfall Gains Tax outlines that 'landholders can accrue significant windfall gains when the value of their land increases due to the actions of government. These landholders will pay a tax on their windfall gains.'

Historically, if land was rezoned by the government to capitalise on economic potential or to expand its legal uses, any increases in land value accrued solely to the landowner. The tax was introduced as a measure to efficiently reallocate the windfall gains as a result of the government rezoning land. It will apply to any land that is subject to a government rezoning which results in a value uplift in excess of $100,000. The marginal tax rates applied will be 62.5% for value uplifts between $100,000 and $500,000—and 50% for uplifts in excess of $500,000. The tax applies on the increase in value only.

This Bill introduces a number of exclusions and exemptions, including rezonings to and from the Urban Growth Zone if the property is already subject to the Growth areas Infrastructure Contribution. Rezoning of land for public purposes is also excluded. Exemptions are available for up to two hectares of land that could be used for residential purposes or if rezoning is to correct obvious or technical errors in planning provisions or schemes.

The other main reforms include:

The point-of-consumption Keno tax—a reform to the Gambling Regulation Act 2003 to reflect the growth in Keno popularity across Victoria driven by the increasing prevalence of online Keno, a system that allows interstate operators. Keno is currently provided by a single licensee in Victoria, taxed at 24.24% of

revenue per week. This new framework ensures that all licensed Keno providers pay a more equitable share of tax on their revenues from Victorian customers regardless of the location of the provider.

A land tax for private gender-exclusive clubs—an amendment to The Land Tax Act 2005 to remove the land tax exemption for not-for-profit club land from private gender-exclusive and gender-restrictive clubs from the 2022 land tax year. However, Commissioner is granted the discretion to reinstate the exemption for:

- clubs that demonstrate a community benefit, or
- for gender-restrictive clubs that can demonstrate they are genuinely inclusive of and open to members of all sexes and gender identities.

Build-to-rent land tax benefits—another amendment to The Land Tax Act 2005 to provide eligible build-to-rent developments with a 50% discount on the taxable value of the development land and an exemption from the absentee owner surcharge in respect of that land. These benefits commence from the 2022 land tax year and may apply for up to 30 years if certain requirements are met. Eligible build-to-rent developments must be new or substantially renovated buildings with at least 50 self-contained dwellings, held within a unified ownership structure, and managed by a single management entity.

Windfall Gains Tax and State Taxation and Other Acts Further Amendment Bill 2021

Criteria	Score	Analysis
1. Need	**No**	No clear statement, based on factual evidence or stakeholder input, was given to justify the windfall gains tax. However, the Department of Treasury and Finance did offer a comment that describes the benefits of the Bill to the wider community. It states a tax on windfall gains could capture a fair share of the private profits associated with rezoning. Independently, this statement on the hypothetical use of additional government revenue is not an adequate statement of policy need. A Victorian Government Build to Rent Working Group Report was also prepared, which clarified the need for a land tax concession for build-to-rent schemes. However, this was only one of the four key policies that contained factual evidence in support of its need.
2. Objectives	**Yes**	In his second reading speech, Treasurer Tim Pallas contextualises the reform in terms of the public interest. Private economic benefits from rezoning, he states, can be partially returned to the community if windfall gains are taxed. This taxation, as long as it is efficient and equitable, will allow the government to invest more in services and infrastructure for the benefit of communities.
3. Options	**No**	We were unable to find descriptions of any other policy options considered directly alongside any of the reforms in this Bill.
4. Mechanisms	**Yes**	According to the state government fact sheet, consultation with 'various sectors' influenced multiple amendments to the legislations that were originally proposed (see Consultation for details). These changes reflect an adequate amount of alternative implementation mechanisms considered.
5. Analysis	**No**	Although a statement of changes to the original proposals was released, there exists no comparison of alternative policy options. As such, no cost-benefit analysis could be conducted to justify the reforms that passed.
6. Pathway	**No**	Although each part of the Bill falls under a holistic approach to state tax reform as part of the 2021-22 State Budget, it would be misleading to consider this Bill as one developed with an adequate design pathway. Each reform in isolation has objectives and implementation in its design, but they lack other crucial elements such as principles, goals, and evaluation mechanisms.
7. Consultation	**Yes**	The fact sheet published by the Victorian Government states that there was targeted consultation with 'various sectors' regarding the implementation of the tax. Details about these stakeholders are not evident.

		The Government announced their commitment to engage in thorough consultation after the Windfall Gains Tax was announced in the recent Budget. Various sectors were consulted to better inform the mechanisms of the tax's implementation and operation before the bill was tabled. Since its announcement, the Government has also made alterations to the policy to better reflect the economic and public health conditions that are relevant to the tax, and to respond to stakeholder feedback. There was no apparent consultation with regard to build–to–rent land tax exemptions, Keno tax or gender-restrictive land tax exemption.
8. Papers	**No**	There is no Green or White Paper associated with this Bill.
9. Legislation	**Yes**	Several of the tax reforms amend existing legislation. In his second reading speech, Victorian Treasurer Tim Pallas introduces the Bill, noting that it amends the Duties Act 2000, Essential Services Commission Act 2001, Gambling Regulation Act 2003, Land Tax Act 2005, State Taxation and Mental Health Acts Amendment Act 2021, Taxation Administration Act 1997, Water Act 1989, and Water Industry Act 1994. The Bill, he states, will also introduce a new Principal Act for the Windfall Gains Tax. Sufficient debate and regular parliamentary process ensued. The Act received Royal Assent with no substantive changes to draft legislation.
10. Communication	**Yes**	An official media release from Tim Pallas announced the Windfall Gains Tax. There was also a relevant page on the State Revenue Office of Victoria's website, notifying of the Bill's Royal Assent. A factsheet is also provided on the Department of Treasury and Finance site.
Total	**5/10**	

Queensland

The Queensland Government achieved the strongest result of all states, with a cumulative score of 30/40 across the four chosen policies. Overall, this is an Acceptable performance for the state in accordance with the Wiltshire Criteria. The Housing Legislation Amendment Bill 2021 achieved a particularly high 10/10 rating. It should be noted that the structure of the explanatory memoranda in Queensland generally includes sections on explicit policy objectives and the reasons for them, alternative ways of achieving those policy objectives, cost of government implementation, consultation, and consistency with other legislation. These standards better aligned Queensland policies with the Criteria. The Voluntary Assisted Dying Bill was deemed Sound and scored one point higher than its namesake in New South Wales. The Youth Justice and Other Legislation Amendment Bill 2021 and the Defamation (Model Provisions) and Other Legislation Amendment Bill 2021 both received Mediocre gradings.

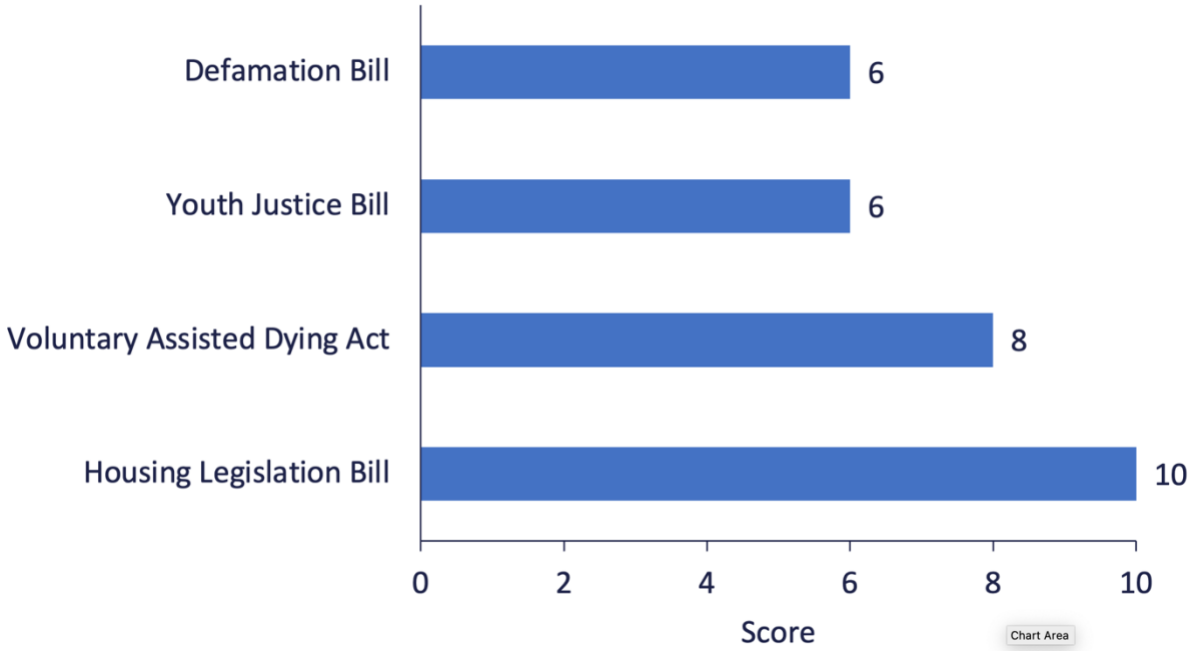

Figure 4 Queensland Bills scorecard
Source: Blueprint Institute Analysis, Evidence-Based Policy Research Project

17. Voluntary Assisted Dying Bill 2021

As outlined above, Queensland, along with New South Wales, passed a Bill to provide the right to voluntary assisted dying. According to the Queensland Health website: 'Voluntary assisted dying is an additional end-of-life choice that gives eligible people who are suffering and dying the option of asking for medical assistance to end their lives.'

Rating: Sound (8/10)

Policy overview

Queensland is the fifth state in Australia to make voluntary assisted dying legal. It has been available in Victoria since June 2019 and Western Australia since 1 July 2021.

The Voluntary Assisted Dying Bill 2021 (the Bill) was introduced into the Queensland Parliament on 25 May 2021. It was based on a draft Bill prepared by the Queensland Law Reform Commission after they conducted a year-long inquiry. The Bill was also referred to the Health and Environment Parliamentary Committee (the Committee) for consideration, who undertook substantial consultation on the draft legislation during the 12-week inquiry. The Committee's report was tabled on 20 August 2021, recommending the Bill be passed. The report also included accounts from experienced professionals, such as Ms Faye Tomlin, an accomplished nurse practitioner specialising in palliative care. Ms Tomlin highlighted the following, 'For me it is very simple: every person deserves the right to make their own choice…it is irrelevant to me how a person dies in that I wish it to be on their terms, their choice. We all have that right as a human being. It is our human right to make our own choice.'

On 16 September 2021, the Bill was passed by the Queensland Parliament and voluntary assisted dying will be available in the state from 1 January 2023.

According to the Voluntary Assisted Dying Handbook, issued by the Queensland Government in July 2022, there are eight key principles that underpin the Bill;

1. Value of human life
2. Dignity

3. Autonomy
4. High-quality care and treatment
5. Accessibility
6. Informed decision making
7. Protecting those who are vulnerable
8. Respect for diversity

The main purposes of this Bill are:

(a) to give persons who are suffering and dying, and who meet eligibility criteria, the option of requesting medical assistance to end their lives; and
(b) to establish a lawful process for eligible persons to exercise that option; and
(c) to establish safeguards to—
    (i) ensure voluntary assisted dying is accessed only by persons who have been assessed to be eligible; and
    (ii) protect vulnerable persons from coercion and exploitation; and
(d) to provide legal protection for health practitioners who choose to assist, or not to assist, persons to exercise the option of ending their lives in accordance with this Bill; and
(e) to establish a Voluntary Assisted Dying Review Board and other mechanisms to ensure compliance with this Bill.

Voluntary assisted dying is only available, however, to eligible Queenslanders and the Bill outlines strict eligibility criteria, for which a person must meet all to be able to access voluntary assisted dying. The eligibility criteria are:

1. have an eligible condition
2. have decision-making capacity
3. be acting voluntarily and without coercion
4. be at least 18 years of age
5. fulfil residency requirements

The individual must also be separately and independently assessed by two doctors, who meet the law's qualification and training rules to be eligible.

It is also important to note that a person who dies as the result of the self-administration or administration of a voluntary assisted dying substance, in accordance with this Bill, does not die by suicide and is taken to have died from the disease, illness, or medical condition from which the person suffered.

Voluntary Assisted Dying Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	Thousands of Queenslanders and organisations were consulted in developing the Bill. In total, 39 hearings considered the testimony, views, and stories from hundreds of experts and witnesses, and more than 10,000 written submissions from across the state. Need was clearly established in the Bill by outlining the principles that underpinned it. Furthermore, in March 2020, the former Health, Communities, Disability Services, and Domestic and Family Violence Prevention Committee tabled Voluntary assisted dying (Report No. 34, 56th Parliament). The Committee's report found that, 'on balance, the Queensland community and health practitioners are supportive of voluntary assisted dying for it to be legislated in Queensland'.
2. Objectives	**Yes**	There is a statement of the Bill's objectives on the Queensland Government Health website, 'Voluntary assisted dying…gives eligible people who are suffering and dying the option of asking for medical assistance to end their lives.'
3. Options	**Yes**	The Explanatory Notes disclose that the Queensland government has committed an additional $171-million investment from FY2021–22 to FY2025–26 to lead reforms in palliative care. 'However, for some Queenslanders suffering from a life-limiting condition, palliative care is unable to effectively manage their pain, symptoms or suffering'. Therefore, despite this investment, new legislation was needed.
4. Mechanisms	**No**	No alternative ways were considered for implementing the Bill.
5. Analysis	**No**	No such analysis was identified.
6. Pathway	**Yes**	There is a clear, comprehensive policy design framework. This includes; principles, a staged request and assessment process, a requirement that an administration decision be made in consultation with, and on the advice of, the coordinating practitioner, and qualification, and training requirements for practitioners involved. There is also independent oversight by the Voluntary Assisted Dying Review Board, and specific requirements for managing the voluntary assisted dying substance offences that apply

		where there is non-compliance with the law. The Voluntary Assisted Dying Review Board will be responsible for monitoring and ensuring compliance with the Act.
7. Consultation	**Yes**	Extensive consultation was undertaken on the draft legislation during a 12-week inquiry by the Health and Environment Parliamentary Committee. There was extensive expert input from doctors, nurses, healthcare workers, consumers, and all others involved in supporting the implementation of voluntary assisted dying through committees and working groups.
8. Papers	**Yes**	There was a Health and Environment Committee report that outlined the Bill's preferred policy options, and invited stakeholders and subscribers to make written submissions. The committee received 1,360 submissions in addition to 4,767 form type submissions. There is also a White Paper explaining the Bill, available on the Queensland government's website.
9. Legislation	**Yes**	Members of Parliament were given a conscience vote for debate of the Bill. Many hosted forums and consulted with their local communities before the debate and voting. The legislation is the outcome of more than three years of work, including two parliamentary committee inquiries and a year-long inquiry by the independent and expert Queensland Law Reform Commission. The Bill is 'one of the most thoroughly researched, analysed, consulted upon and considered pieces of legislation.'
10. Communication	**Yes**	There are many pages on the Queensland Department of Health's website explaining the Act, eligibility criteria, report findings, and process.
Total	**8/10**	

18. Youth Justice and Other Legislation Amendment Bill 2021

The objective of the Youth Justice and Other Legislation Amendment Bill (the Bill) is to respond to reoffending youth and strengthen the youth justice bail framework.

Rating: Mediocre (6/10)

Policy overview

The Youth Justice and Other Legislation Amendment Bill, introduced 25 February 2021, implements a range of amendments to the Youth Justice Act 1999.

On 11 December 2018, the Queensland Government released the Working Together, Changing the Story: Youth Justice Strategy 2019–2023. The Youth Justice Strategy adopts 'Four Pillars' as its policy position for youth justice reform; intervene early, keep children out of court, keep children out of custody, and reduce reoffending.

Despite the Youth Justice Strategy reducing the number of youth offenders coming to the attention of police, there remained a small number of reoffending youth. According to the 2019-20 Childrens Court of Queensland Annual Report, only 10% of all youth offenders account for 48% of all youth crime. In March 2020, the government announced the Five Point Action Plan to support the Youth Justice Strategy in targeting this specific group of offenders. The amendments made in this Bill build on the Five Point Action Plan.

Following its introduction, Hon. Mark Ryan MP, Minister for Police and Corrective Services and Minister for Fire and Emergency Services, referred the Bill to the Legal Affairs and Safety Committee. As part of the inquiry process, a stakeholder meeting was held in relation to youth justice proposals. Included in the meetings were representatives from; Sisters Inside Inc, Aboriginal and Torres Strait Islander Legal Service, Legal Aid Queensland, Queensland Law Society, Bar Association of Queensland, Youth Advocacy Centre, PeakCare, and many others. The Committee also invited stakeholders and subscribers to make written submissions on the Bill.

Findings from the meetings and submissions revealed that there were mixed views on the proposed amendments to the Youth Justice Act and a number of stakeholders did not support the Bill. Feedback included views such as, 'given the potential harm done to children in prison, children should not be subject to policies that result in increased rates of imprisonment' and 'the proposed amendments are not appropriately adapted to the aim of reducing youth offending.' The department responded to concerns and noted that 'ultimately, the passage of the Bill, including any amendments, will be determined by

democratically elected representatives in the Queensland Parliament.' Following consideration, the Committee recommended that the Bill be passed. The Committee tabled its report on 16 April 2021 and the Bill was passed, with government amendments, on 22 April 2021.

In addition to amendments made to the Youth Justice Act, the Bill also enacts a range of amendments to the Police Powers and Responsibilities Act—in relation to knife crime and 'hooning' offences. Specifically, the Bill addresses its policy objectives by:

- strengthening the youth justice bail framework;
- codifying the sentencing principle, currently found in common law, that the fact that an offence was committed while subject to bail is an aggravating factor when determining the appropriate sentence;
- amending the Charter of Youth Justice Principles to include a reference to the community being protected from recidivist youth offenders;
- providing for a trial of powers for police to stop a person and use a handheld scanner to scan for knives in Safe Night Precincts on the Gold Coast; and

Youth Justice and Other Legislation Amendment Bill 2021

Criteria	Score	Analysis
1. Need	**No**	Although this Bill aims to target the reoffending of a specific cohort of youth offenders that account for 48% of all youth crime, feedback from stakeholder submissions and meetings reveal there was serious concern with the Bill, and a number of stakeholders did not support it.
2. Objectives	**Yes**	The objectives are clearly outlined and contextualised in terms of public interest. For example, the objectives of the amendments relating to 'hooning' laws are to protect the community and road users from the risk of a range of antisocial and unsafe driving behaviours.
3. Options	**Yes**	The Human Rights Statement of Compatibility discusses, in detail, whether there are any less restrictive (on human rights) and reasonably available ways to achieve the policy objectives underpinning the Bill. However, it was established there are no such alternative ways to achieve the policy objectives.
4. Mechanisms	**No**	No alternative mechanisms for implementing the chosen policy appear to have been disclosed / explored.
5. Analysis	**No**	No such analysis was available.

6. Pathway	**Yes**	There was a complete policy design framework including principles, goals, delivery mechanisms, ongoing evaluation mechanisms, and the provisions in the Bill are subject to a review process and sunset clause. Furthermore, Commissioner Bob Atkinson AO APM will independently report to the government regarding the progress of the reforms, including the electronic monitoring trial.
7. Consultation	**Yes**	Consultation with stakeholders occurred as part of the Legal Affairs and Safety Committee inquiry process.
8. Papers	**No**	There was no discussion paper, exposure draft, or other document seeking public input ahead of the development of the Bill. According to the Explanatory Notes, due to the nature of the Police Powers and Responsibilities Act amendments, no external consultation was undertaken ahead of the development of this Bill.
9. Legislation	**Yes**	The Bill was introduced on 25 February 2021 and passed following debate and government amendments on 22 April 2021.
10. Communication	**Yes**	The Department of Children, Youth Justice and Multicultural Affairs issued multiple websites and documents explaining the final policy in simple and clear terms.
Total	**6/10**	

19. Housing Legislation Amendment Bill 2021

The Housing Legislation Amendment Bill 2021 (the Bill) introduced a suite of new rental law reforms to provide more transparency between landlords and renters. The Bill sought to deliver on three objectives: to modernise the legislation, to ensure vulnerable community members have support mechanisms in place to retain tenancies, and to instil confidence for both landlords and tenants with regard to safety and dignity across the housing system. The Bill did receive criticism from some public submissions which suggested that whilst the intentions were sufficient, there was not much in the way of substantive reform for those objectives to be met.

Rating: Excellent (10/10)

Policy overview

The Housing Legislation Amendment Bill 2021 passed in Queensland on 14 October 2021 after being introduced on 18 June 2021. This legislation formed part of the Queensland Housing Strategy—a 10-year framework which aims to provide Queenslanders with a better pathway to safe, secure, and affordable housing. The suite of rental law reforms attempt to refresh existing legislation to reflect the modern demands of the rental market.

The Bill was referred to the Community Support and Services Committee for consideration. Their report, which included public and stakeholder submissions, was due by 16 August 2021. There were over 800 public submissions to the Committee in the consultation process. By encouraging greater transparency and responsibility from landlords, this legislation intends to provide more certainty to tenants that their property will be secure and meet functionality compliance standards. There are also strengthened frameworks in place for those in situations of domestic violence, as well as opening negotiation pathways for pets.

The Explanatory Memorandum outlines how the Bill will deliver the key objectives of the Queensland Housing Strategy. These include a commitment to modernising rental laws to protect tenants and lessors, and improve stability in the rental market, by ensuring support for vulnerable community members to sustain secure housing options.

The Bill will set about achieving these initiatives by amending legislation to:

- remove the power of landlords to end tenancies without grounds

- expand the list of approved grounds for both landlords and tenants to end a tenancy
- prescribe minimum housing standards and compliance mechanisms to ensure the safety, security, and functionality of Queensland rental properties, minimising occupational health and safety risks
- strengthen rental law protections for vulnerable residents experiencing domestic or family violence
- allow for greater flexibility with regard to renting with pets, limiting landlord discretion to refuse requests for pets

Whilst the Bill is clear and comprehensive in its ambitions, there remains public concern that the policies themselves may lack substance. One public submission suggested the Bill 'will do little to improve my situation as one of the 1.8 million renters in Queensland…While I'm pleased that the Bill includes positive provisions for renters experiencing domestic and family violence, it contains little other reforms of substance for renters. I urge the Queensland government to take this opportunity to amend this Bill and to implement real rental reforms that will make renting in Queensland affordable, secure and fair.'

Similar responses from the public advocated for stronger intervention to regulate real estate agencies and private landlords—including banning 'no grounds' evictions and rent bidding, halting unreasonable rent increases due to CPI, and increased minimum standards to include cleanliness, insulation, and ventilation.

Housing Legislation Amendment Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The Explanatory Memorandum states that 'with more Queenslanders renting, and renting longer, it is important that our rental laws support individuals and families to access and sustain safe and secure rental accommodation. Queensland needs laws that help people secure renting arrangements that meet and are responsive to their changing needs.'
2. Objectives	**Yes**	The Explanatory Memorandum outlines how the legislation will deliver key objectives of the Queensland Housing Strategy, which 'aims to ensure confidence in housing markets, ensure consumers are protected, and the housing legislative framework is reformed and modernised.'
3. Options	**Yes**	A Queensland Government Response document addressed five alternative options that the Committee recommended.
4. Mechanisms	**Yes**	Public consultation and influence from the Committee led to several proposed amendments to the original implementation mechanisms that were then accepted in parliament.
5. Analysis	**Yes**	A Consultation Regulatory Impact Statement includes a detailed cost-benefit analysis of the proposed amendments to the Residential Tenancies and Rooming Accommodation Act 2008 against the status quo. A Deloitte Access Economics Report, which was referred to in the Committee report, provides an economic analysis of the rental reforms. A section on government consultation in the Committee report included 'a comprehensive cost-benefit analysis of the recommended final Stage 1 proposals.'
6. Pathway	**Yes**	The Bill reflected two parts of the Queensland Housing Strategy (2017–27) which contains a comprehensive design pathway. The Bill has a staggered implementation design to help all stakeholders prepare for the adjustment mechanisms. It details the policy's objectives and principles clearly.
7. Consultation	**Yes**	The Report from the Community Support and Services Committee included comprehensive stakeholder input. The Committee also published 800 submissions of comment on the Bill from relevant stakeholders and the public. The

		Queensland Housing Strategy also describes the consultation process that occurred in the section titled 'What Queenslanders told us.'
8. Papers	**Yes**	There were over 800 public submissions of public input used by the Community Support and Services Committee which fulfilled the purpose of the green paper. There was a published document of the Government's response to the Committee's report which fulfilled the purpose of the white paper.
9. Legislation	**Yes**	The policy amends existing legislation—specifically the Residential Tenancies and Rooming Accommodation Act 2008, Residential Tenancies and Rooming Accommodation Regulation 2009 and Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020 and the Retirement Villages Act 1999. There was a substantial quantity of public submissions and adequate parliamentary debate.
10. Communication	**Yes**	A Queensland government website explained the details of the policy in clear terms.
Total	**10/10**	

20. Defamation (Model Provisions) and Other Legislation Amendment Bill 2021

The Defamation (Model Provisions) and Other Legislation Amendment Bill 2021 (the Bill) introduces a number of defamation law reforms, called the Model Defamation Provisions, in alignment with other states. Some of the major changes include: a single publication rule for multiple publications regarding the same defamation matter, a public interest defence, a defence applying to statements from peer-reviewed academic journals, and a serious harm threshold.

Rating: Mediocre (6/10)

Policy overview

The Defamation (Model Provisions) and Other Legislation Amendment Bill 2021 was passed on 24 June after being first introduced on 20 April 2021. The Bill included a number of reforms to ensure consistency in defamation legislation across states. The Model Defamation Provisions (MDPs) were the original uniform defamation provisions established in 2004, and were enacted in each state—in Queensland, this was through the Defamation Act 2005.

The Model Defamation Provisions Intergovernmental Agreement established the Model Defamation Law Working Party (DWP) in 2018. Each state and territory is party to the Agreement. The DWP reports to the Council of Attorneys-General on proposals to amend the MDPs. The DWP conducted a 2019 review of the MDPs and recommended that certain amendments should be made. In July 2020, the Council of Attorneys-General agreed to support the enactment of the Model Defamation Amendment Provisions 2020 (MDAPs) by each state, modernising their defamation laws. This Bill represents Queensland enacting the provisions alongside other states.

The principal object of this Bill is to amend the Defamation Act and the Limitation of Actions Act 1974 to implement the MDAPs.

Some of the key reforms include:

- A serious harm threshold—serious harm will become an element of the cause, placing onus on the plaintiff to establish whether serious harm has been or is likely to be caused to the plaintiff's reputation. Failing to do this may result in cost consequences to the party taking action.

- A single publication rule—for multiple publications relating to the same defamation matter—such that the start date of the one-year limitation period for each publication runs from the date of the first publication, and for an electronic publication, the start date begins when the file in question is uploaded for access or sent, rather than when it is downloaded or viewed.
- A public interest defence—where the defendant can prove the statement complained of referred to a matter of public interest and reasonably believed that the publication of the statement in question was of the public interest.
- A defence applying to peer-reviewed statements in an academic journal

Full details of the policy objectives established by the MDAPs can be found in the Explanatory Notes.

The Bill was referred to the Legal Affairs and Safety Committee for detailed consideration and they produced a report with key findings and recommendations. The Bill was supported by the Greens, but received criticism from the LNP for lagging behind other states in implementing the model provisions.

Defamation (Model Provisions) and Other Legislation Amendment Bill 2021

Criteria	Score	Analysis
1. Need	**Yes**	The Explanatory Notes contain a section on the need for the policy's objectives. An extensive consultation process ensured that the Bill was made in alignment with stakeholder engagement.
2. Objectives	**Yes**	The Explanatory Notes outlined that 'the principal object of this Bill is to amend the Defamation Act and the Limitation of Actions Act 1974 to implement the Model Defamation Amendment Provisions (MDAPs).' The Legal Affairs and Safety Committee Report also states 'the amendments will discourage and prevent expensive litigation for minor or insignificant claims; otherwise encourage the early resolution of defamation claims; ensure that the law of defamation does not place unreasonable limits on the freedom of expression by encouraging open and transparent reporting and public discussion here in Queensland; and modernise provisions to apply more appropriately to digital publications.' This is also backed up by the committee's public briefing.
3. Options	**No**	The Explanatory Notes state that, 'in relation to defamation, there are no alternative ways to achieve the policy objectives.'
4. Mechanisms	**No**	There was no disclosure of alternative mechanisms considered for the implementation of the defamation reforms.

5. Analysis	**No**	There was no published analysis regarding the defamation reforms.
6. Pathway	**No**	Despite the substantive process of review, consultation, and amendment from the 2018 DWP Review, there is not enough evidence that the policy utilised a comprehensive design pathway.
7. Consultation	**Yes**	The DWP produced a discussion paper in 2019 and conducted public consultation after the report was published. The Explanatory Notes state that 'in reviewing the MDPs, the DWP undertook an extensive public consultation process over a two year period which included the public release of a discussion paper, background paper and draft amendments for comment, four stakeholder roundtables and the engagement of an expert panel comprised of judges, academics, defamation practitioners and the New South Wales Solicitor-General.' The committee report confirms the consultation process.
8. Papers	**Yes**	There was no official Green Paper nor White Paper for the Bill, however the DWP led by New South Wales released a discussion paper and a background paper which fulfilled the purpose of a Green Paper through adequate stakeholder and public consultation. Considering the function of the Legal Affairs and Safety Committee Report and its recommendations, we found that it sufficiently fulfilled the purpose of a White Paper to an extent adequate to pass this criteria. .
9. Legislation	**Yes**	The Bill was based on existing legislation—amending the Defamation Act 2005.
10. Communication	**Yes**	The Queensland Crown Law's website announced the changes to Queensland defamation law through the Bill.
Total	**6/10**	

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