

# Media Release

The Hon Martin Pakula MP  
Attorney-General  
Minister for Racing



Getting Things Done.  
Making Things Fair.

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## GUARDIANSHIP LAWS OVERHAULED

The Andrews Labor Government introduced new laws this week to better protect the rights of adults with disability to make and participate in decisions that affect their lives.

The Guardianship and Administration Bill 2018 will replace outdated laws from 1986 to define decision-making capacity, including a presumption that a person has the capacity to make decisions unless evidence is provided otherwise.

Representing the biggest change to Victorian guardianship and administration laws in more than 30 years, the laws will recognise that a person also has decision-making capacity if they can make decisions with support.

The changes reflect a more modern understanding of decision-making capacity and disability, and ensure that a person's will and preferences are followed where possible and appropriate.

The laws will allow the Victorian Civil and Administrative Tribunal (VCAT) to set limits on guardianship and administration appointments, so that orders are tailored to fit individual circumstances.

VCAT must also hear all initial applications in the person's presence, unless satisfied that the person doesn't want to attend, or there is another justifiable reason for their absence.

Additionally, the reforms allow for the appointment of a supportive guardian or administrator, providing less restrictive alternatives for a person who is capable of making decisions with support.

New offences will be created to penalise guardians or administrators who dishonestly use their appointment for financial gain or cause loss to the represented person, attracting a maximum penalty of five years imprisonment.

The reforms also allow a person to be compensated for a loss caused by a guardian or administrator who breaches their duties.

The changes implement key recommendations from the Victorian Law Reform Commission's *2012 Guardianship Report*. It complements recent reforms in the *Powers of Attorney Act 2014* and the *Medical Treatment Planning and Decisions Act 2016*.

### Quotes attributable to Attorney-General Martin Pakula

*"People living with impaired decision-making ability deserve the dignity and independence of being supported to make their own decisions wherever possible."*

*"We're modernising the definition of decision-making to ensure Victorians with disability aren't subjected to arbitrary and unnecessary intrusions on their right to make decisions affecting their lives."*

### Quote attributable to Minister for Housing, Disability and Ageing Martin Foley

*"These laws are about striking the right balance in promoting the rights of people with impaired decision-making ability, while ensuring appropriate safeguards for people at risk of harm."*

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