

Submission: Justice and Related Legislation (Miscellaneous Amendments) Bill 2026

1. Overview

COTA Tasmania supports changes to legislation where they improve clarity, consistency and the practical operation of the law. However, amendments described as miscellaneous or machinery changes can still have real impacts on people's lives, especially where they affect how people access information, understand their rights, respond to decisions or navigate government processes.

That matters in Tasmania, where we have an older population and where many older people already face barriers linked to digital access, service availability, transport, disability, caring responsibilities, low income or lower confidence in dealing with formal systems. Even small procedural changes can make a system easier to use - or harder to access.

COTA Tasmania's interest in this Bill is therefore to ensure that legislative tidying-up does not unintentionally reduce fairness, accessibility or practical access to justice. Our submission focuses on the importance of clear processes, non-digital options, appropriate safeguards, and implementation that works for the people who rely on these systems.

2. About COTA Tasmania

COTA Tasmania is the peak body representing the interests of older Tasmanians. For more than 60 years, COTA Tasmania has worked to advance the rights, wellbeing and participation of older people through policy, advocacy, information, education, and community engagement.

COTA Tasmania supports legislative reform that is fair, practical and accessible. In the justice context, that means laws and administrative systems that ordinary people can understand and use, including those who may be experiencing age-related barriers, disability, low income, low digital confidence, caring responsibilities, cognitive impairment, social isolation or regional disadvantage.

3. Why this matters in Tasmania

Tasmania has the oldest population in Australia. That is not an incidental fact. It should shape how Government thinks about legislation, service design and implementation.

Older Tasmanians are more likely than many others to engage with justice-related systems at points of stress or vulnerability. after bereavement, in the context of family conflict, consumer harm, tenancy problems, fines and debt, guardianship and administration, powers of attorney, elder abuse, or when seeking review of a decision that affects daily life.

For many older people, the issue is not whether a right technically exists. It is whether the system is understandable, affordable, navigable and fair in practice.

That is why COTA Tasmania is concerned whenever legislation is described as “miscellaneous” or largely administrative. Seemingly minor amendments can have major practical consequences, especially for people who are already managing complexity or disadvantage.

4. Overall position

COTA Tasmania supports sensible legislative tidying-up, clarification and modernisation.

However, COTA Tasmania does not support “efficiency” reforms that make systems harder for the public to navigate, narrow practical access to justice, shift burdens onto individuals, or accelerate quiet movement toward digital-only processes.

Accordingly, COTA Tasmania supports the Bill only on the basis that it improves or (at minimum) preserves accessibility, fairness and transparency for Tasmanians who rely on justice-related systems, including older people.

In COTA Tasmania’s view, the Government should apply the following test to every amendment in the Bill:

- Does it make the system easier to understand?
- Does it preserve procedural fairness?
- Does it avoid creating new barriers for people with low digital literacy, disability, cognitive decline or limited support?
- Does it reduce, rather than increase, hidden costs and complexity?
- Does it maintain meaningful review, appeal and assistance pathways?

If the answer to any of those questions is no, the amendment should be reconsidered.

5. Transfer of Retirement Villages to the TASCAT Administrative Stream

5.1 Treatment of Retirement Village Matters in TASCAT

COTA Tasmania notes that the Bill amends the Retirement Villages Act 2004 to remove section 14B(7), with the effect that retirement village matters are no longer dealt with in the Resource and Planning stream and are instead to be heard in the Administrative stream of the Tasmanian Civil and Administrative Tribunal (TASCAT). The consultation material indicates this is intended to reflect the current allocation of matters.

COTA Tasmania does not object in principle to this change. If the amendment simply aligns the legislation with current TASCAT practice and results in a clearer, more coherent forum for retirement village matters, that may be sensible.

However, retirement village disputes often involve older residents navigating complex contractual, financial and housing issues, frequently without legal representation. For that reason, COTA Tasmania considers it important that any stream change be assessed not only as an administrative correction, but also in terms of its practical effect on:

- accessibility;
- timeliness;
- procedural fairness; and
- user experience for older people.

COTA Tasmania also supports the proposed transitional savings provision preserving existing proceedings already commenced in the Resource and Planning stream. This is a sensible measure to avoid confusion and disruption for current parties.

More broadly, COTA Tasmania encourages the Department and TASCAT to ensure that Administrative stream processes applying to retirement village matters are age-friendly, easy to understand, and practically accessible, including through clear information, simple forms, accessible hearings, and sensitivity to the realities of ageing, disability and digital exclusion.

5.2 Time-limit applications and the proposed \$60 fee

COTA Tasmania's principal concern is the amendment to section 115 of the Tasmanian Civil and Administrative Tribunal Act 2020 and the related proposal to introduce a \$60 fee for an application to extend or shorten a time limit. The consultation material explains that the section 115 amendment is being made in order to enable the regulations to introduce such a fee.

The proposed new section 115 would allow TASCAT, on its own initiative or on the application of a party, to extend or shorten a time limit for doing anything in connection with proceedings, including commencement of proceedings, even after the original time limit has expired.

In principle, COTA Tasmania supports this as a useful clarification that gives the Tribunal flexibility to respond to individual circumstances. However, COTA Tasmania is concerned that imposing a fee on applications of this kind may create an access-to-justice barrier for older people seeking to protect or enforce their rights.

Many older Tasmanians live on fixed and modest incomes. Some experience illness, hospitalisation, reduced mobility, caring responsibilities, bereavement, disability, cognitive impairment, transport difficulties, or limited digital confidence. These are precisely the kinds of circumstances that may cause delay in meeting a procedural deadline. A fee attached to an extension-of-time application risks operating as a barrier for those already facing disadvantage.

This concern is especially relevant where older people are self-represented. Tribunal systems are intended to provide accessible, lower-cost pathways for dispute resolution. Even relatively modest fees can discourage people from taking necessary procedural steps, particularly where the person is already uncertain, stressed, or dealing with health or financial pressures. For some retirement village residents and other older applicants, a \$60 fee will not be trivial.

If the Government proceeds with the proposed fee, COTA Tasmania recommends that appropriate safeguards be put in place. At a minimum, there should be a clear and accessible process for waiver, remission or non-payment of the fee where payment would cause hardship or where the circumstances giving rise to delay are reasonable. Guidance about time-limit applications should also be provided in plain English and in accessible formats suitable for older people and self-represented parties.

6. Other concerns and expectations

6.1 Miscellaneous amendments should not weaken access to justice

COTA Tasmania is concerned by the common assumption that technical, machinery or miscellaneous amendments are inherently low-impact. Often they are not.

A small procedural change can mean:

- a person misses a deadline;
- a notice is not understood;
- a matter cannot be progressed without internet access;
- a support person is shut out of the process;
- review rights are harder to exercise; or
- more time, travel and money are required just to resolve a straightforward issue.

Older Tasmanians are particularly exposed where systems become more fragmented, more document-heavy, more time-limited or more reliant on self-navigation.

COTA Tasmania therefore expects the Government to demonstrate that no amendment in this Bill will reduce practical access to justice for members of the public.

6.2 “Digital by default” is not good enough in justice settings

COTA Tasmania continues to raise concerns across government where systems drift toward digital-first and then, in practice, become digital-only for many users.

In justice and administrative contexts, this is particularly problematic. Online forms, document upload requirements, identity verification processes, email-based communication and website-only guidance can all become barriers for older people, especially those with:

- low digital confidence or literacy;
- limited access to devices or reliable internet;
- vision, hearing or dexterity impairments;
- cognitive impairment;
- low English literacy;
- limited family support; or
- regional isolation.

For that reason, COTA Tasmania strongly urges that any process affected by this Bill must remain available through non-digital and assisted pathways, including paper, telephone and in-person options where appropriate.

Justice should not depend on a person’s comfort with online systems.

6.3 Safeguards are essential wherever capacity, representation, or authority are in issue

Older Tasmanians are more likely than the general population to encounter systems where questions arise about decision-making capacity, who may act on their behalf, how consent is established, and whether a person’s wishes are being properly heard.

That is why COTA Tasmania urges particular caution if any amendments affect:

- recognition of representatives or authorised persons;
- powers of attorney or substitute decision-making;
- evidentiary requirements linked to capacity or vulnerability;
- access to information or records by third parties;

- tribunal or review procedures involving supported participation; or
- any process where a person may be at risk of coercion, pressure or abuse.

COTA Tasmania supports reform that strengthens clarity and safeguards. It does not support reform that makes it easier for a person's voice to be displaced or ignored.

In any area touching these issues, the law should favour:

- clear authority rules;
- supported decision-making where possible;
- protection against undue influence;
- proportionate safeguards;
- accessible review rights; and
- practical recognition of the person's own will and preferences.

6.4 The lived experience of reform matters as much as legal drafting

A reform may look tidy from a legislative perspective while being confusing or punishing in real life.

COTA Tasmania strongly encourages the Department to consider the lived experience of implementation. For many people, particularly older Tasmanians, the justice system is already difficult to understand. Additional complexity, changed terminology, altered forms, new pathways or poorly explained transitions can make matters worse.

If the Bill proceeds, the Government should commit to:

- plain-English public information;
- worked examples of what has changed;
- accessible fact sheets;
- support for community legal and advocacy services to explain the changes;
- frontline staff training; and
- a clear transition period where needed.

Good legislation is not enough if the public cannot work out what it means.

6.5 There should be no hidden transfer of cost, time, or risk onto users

COTA Tasmania is concerned whenever administrative simplification for government results in more burden for users.

This can happen through:

- additional documentation requirements;
- shorter or more rigid timeframes;
- more need for certified documents or professional assistance;
- repeated contact with multiple agencies;
- travel to resolve matters that were previously simpler; or
- increased reliance on unpaid support from family, carers or advocates.

These burdens fall particularly heavily on older people on fixed incomes, those without transport, and those already navigating health, caring or housing pressures.

If the intent of the Bill is to streamline and modernise, that must be true from the public's perspective as well.

6.6 Fairness requires review, oversight and the ability to challenge decisions

COTA Tasmania places a high value on procedural fairness. This includes the ability to understand a decision, know what options are available, access review or appeal if needed, and obtain assistance to do so.

Any amendment that narrows notification, alters review rights, shortens effective response time, limits representation or increases formality should be scrutinised carefully.

For older Tasmanians, particularly those who may be isolated or unwell, the loss of a practical review pathway can be the difference between justice and injustice.

6.7 The Government should not assume a neutral impact on older people

Even when legislation is not explicitly age-specific, its effects may not be evenly distributed.

Older people are more likely to be affected by poor accessibility, complexity, unsupported digitalisation, low legal literacy and administrative burden. They are also more likely to rely on informal assistance from family, carers, neighbours or advocacy services.

COTA Tasmania therefore recommends that the Bill be assessed through an explicit accessibility and equity lens, rather than treated as value-neutral.

7. Recommendations

7.1 Transfer of Retirement Villages to the TASCAT Administrative Stream

COTA Tasmania recommends that the Tasmanian Government:

- Ensure the transfer of retirement village matters to the Administrative stream does not reduce accessibility, timeliness or procedural fairness for older residents.
- Retain the proposed transitional savings provision for existing retirement village proceedings.
- Support the Tribunal's flexible power to extend time, including after expiry of a time limit.
- Reconsider the proposed \$60 fee for applications to extend or shorten time limits, given its potential to create an unnecessary access-to-justice barrier.
- If the fee proceeds, provide a clear hardship waiver or remission mechanism.
- Provide plain-English guidance for self-represented parties and older Tasmanians about time-limit applications and relevant TASCAT processes.
- Ensure TASCAT processes for retirement village matters are age-friendly and accessible in practice, including through simple forms, clear information and accessible hearings.

7.2 Ensuring procedural fairness and accessibility

COTA Tasmania recommends that the Tasmanian Government:

- Assess all proposed amendments against a practical access-to-justice test, not just legal or administrative efficiency.
- Ensure no amendment reduces procedural fairness, review rights or the practical ability of members of the public to navigate justice-related processes.
- Retain non-digital pathways for any affected process, including paper, telephone and in-person options where appropriate.
- Provide for assisted participation, including recognition of support persons and accessible means of engagement for people with disability, cognitive impairment or low digital confidence.
- Ensure any changes affecting representation, authority, consent or decision-making capacity are accompanied by clear safeguards.
- Avoid cost-shifting onto individuals and families, including through added documentation, compliance requirements, travel burdens or reliance on professional help.
- Produce plain-English implementation materials, including public fact sheets and practical guidance for community organisations and frontline services.
- Train frontline staff so that advice and support to the public is accurate, consistent and accessible.
- Monitor post-implementation impacts, including any evidence of reduced accessibility, increased complaints, rejected applications, regional disadvantage or barriers affecting older Tasmanians.
- Publish a short implementation and access statement setting out how the Government has considered impacts on older people, people with disability and people with low digital literacy.

8. Conclusion

COTA Tasmania supports legislative reform that improves clarity and strengthens the justice system.

But “miscellaneous” should not mean “low consequence”. Technical amendments can have significant real-world effects, particularly for older Tasmanians and others who already face barriers in understanding and navigating government systems.

Importantly, COTA Tasmania does not object in principle to the proposed stream change for retirement village matters, provided it does not reduce accessibility or procedural fairness.

COTA Tasmania also supports in principle a flexible Tribunal power to extend time. However, we are concerned that the proposed \$60 fee for applications under section 115 may create an unnecessary barrier for older people, especially those on low incomes or facing illness, disability, caring responsibilities, or other disadvantage.

COTA Tasmania therefore urges the Government to ensure that this Bill is not only legally coherent, but fair, accessible, and workable in practice.

For Tasmania's ageing population, that is not an optional extra. It is a basic test of good law reform.

COTA Tasmania would welcome the opportunity to comment further on the detail of the Bill, particularly where amendments affect access, notice, representation, review rights, supported decision-making, records, complaints processes or any other matter with practical implications for older Tasmanians.