

limbs of the test, rendering the offence difficult to successfully prosecute.

The bill enhances the director's power to conduct an appropriate probity check on a body corporate that is applying for a licence or for the transfer of a licence by requiring the body corporate to supply the names, addresses and dates of birth of its associates to the director. Further, the bill will require all licensees and permittees to provide written notice to the director in the event of a person becoming an associate or ceasing to be an associate of the licensee or permittee.

Finally, the bill amends the act to expressly include the voluntary deregistration or winding-up of a company as a ground for any licence or BYO permit held by the company to cease to have effect unless the licence or permit is endorsed under part 4 of the act.

The bill delivers on the key commitments of government to improve the operation of the act through enhanced monitoring and enforcement. The important legislative initiatives contained in the bill represent one aspect of the government's wide ranging suite of measures to reduce the negative impact of alcohol abuse in our society and to improve the community's safe enjoyment of Victoria's entertainment precincts.

I commend the bill to the house.

Debate adjourned on motion of Mr O'BRIEN (Malvern).

Debate adjourned until Thursday, 18 December.

ASSOCIATIONS INCORPORATION AMENDMENT BILL

Statement of compatibility

Mr ROBINSON (Minister for Consumer Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Associations Incorporation Amendment Bill 2008.

In my opinion, the Associations Incorporation Amendment Bill 2008, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill.

The bill introduces a range of amendments to the act that will:

- enhance the rights of members of incorporated associations;
- improve the internal governance arrangements for associations;
- enhance the supervisory role of the registrar of incorporated associations;
- improve provisions relating to the winding up and administration of incorporated associations; and
- introduce a number of minor administrative amendments.

In particular, the bill will:

- merge the roles of public officer and secretary of an incorporated association;
- amend the schedule to the act to include additional mandatory rules providing for proper keeping of minutes of meetings and for member access to minutes and to financial records and statements;
- provide that members of an incorporated association must confirm termination of appointment of an auditor;
- clarify the circumstances in which an office-holder, former office-holder or member of an incorporated association must return to the incorporated association any documents of the association in their possession;
- provide that a notice of a proposed special resolution must set out full details of the proposed resolution;
- provide that the statement of purpose of an incorporated association is to be enforceable by application to the Magistrates Court by a member or by the registrar of incorporated associations;
- allow a member or former member of an incorporated association to seek an order from the Magistrates Court to remedy the effects of 'oppressive conduct' by an association;
- provide a general power for the Magistrate's Court when considering an application made under the act to refer a matter to the Supreme Court if it raises a complex question or matter of general importance or to reserve a question of law for the Supreme Court;
- provide additional power for the registrar to clarify the validity of lodged documents;
- clarify that when assessing proposed rules or amended rules, the registrar may accept some proposed changes and refuse others;
- provide a power for the registrar to ask the Magistrates Court to appoint a temporary statutory manager when this is in the public interest;
- allow small incorporated associations with less than \$10 000 in surplus assets to apply for voluntary cancellation of registration;

clearly prohibit distribution of surplus assets to members, except in certain circumstances;

provide for voluntary administration of incorporated associations by applying part 5.3A of the Corporations Act 2001 (Commonwealth);

establish the registrar as a body corporate;

prevent claims against or by an incorporated association in certain circumstances;

provide qualified privilege for a statutory manager, administrator or auditor of an incorporated association.

Human rights issues

The registrar's power of inquiry, as provided by section 36EB(1), potentially engages the section 13 charter right to privacy where information relates to natural persons. This power of inquiry has, therefore, been specifically prescribed to ensure the registrar may only make inquiries which are relevant to the information provided in the section 36EA(5) declaration. The proposed power of inquiry is both provided for by law and proportionate to achieve the aims of the act and is, therefore, compatible with the section 13 charter right to privacy.

Otherwise, the provisions in this bill do not raise any human rights issues.

Consideration of reasonable limitations — section 7(2)

The bill does not limit any human right, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

Hon. Tony Robinson, MP
Minister for Consumer Affairs

Second reading

Mr ROBINSON (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The Associations Incorporation Act 1981 was established to provide a simple and inexpensive means by which unincorporated non-profit associations could obtain corporate status. The act, which essentially regulates the creation, operation and dissolution of incorporated associations, is the most popular vehicle for the incorporation of community and non-profit groups in Victoria. At 30 June 2008, there were 34 385 incorporated associations on the register of incorporated associations.

This bill introduces a range of amendments to the act that will:

enhance the rights of members of incorporated associations;

improve the internal governance arrangements for incorporated associations;

enhance the supervisory role of the registrar of incorporated associations;

improve provisions relating to the voluntary winding up and external administration of incorporated associations; and

introduce a number of minor administrative amendments.

The reforms implemented by this bill have been the subject of wide consultation and detailed analysis. A review of the Associations Incorporation Act in 2004–2005 identified a number of proposals for reform. Those proposals were subject to further consideration during the 2007 State Services Authority Review of Not-for-Profit Regulation, and in April of this year, the Premier launched the Victorian Government Action Plan: Strengthening Community and Not-for-Profit Organisations.

The action plan responds to the State Services Authority Review and to the Stronger Community Organisations project and outlines a number of proposed actions designed to simplify and update legislation, improve support for the operation of the community and not-for-profit sector and relieve the burdens of regulatory compliance and reporting. Those actions include a range of reforms to the Associations Incorporation Act.

The government has adopted a two-staged approach to implementing reform of the act, of which this bill is stage one. The action plan identified a number of issues that required further consideration and consultation with stakeholders including revised financial and annual reporting requirements, appropriate thresholds for audit requirements and external dispute resolution mechanisms.

Those matters have not been addressed in the current bill and will be the subject of further consideration by government and consultation with stakeholders in 2009. This will also allow the government the opportunity to take into account any proposals for greater national harmonisation of not-for-profit regulation that may flow from the current senate committee inquiry into the