employers exiting the WorkCover scheme did not fall on those employers, many of them small businesses, left behind.

At the same time, the government enacted laws to protect the injured workers of those large employers exiting the Victorian scheme for Comcare to ensure that those proposing to leave the scheme did not drop the ball on assisting their workers return to safe, suitable and durable employment.

The legislation introduced in 2005 was sound and effective in protecting the interests of Victorian workers and employers, and the finances of the Victorian WorkCover scheme.

However, it has become apparent in recent times that there are a number of issues in the 2005 provisions which, if not addressed, could result in increasing non-compliance with existing requirements and, as a consequence, potentially lead to significant unfunded claims liabilities for the WorkCover scheme.

To this end, the bill before the house today refines the Accident Compensation Act 1985 to:

ensure that the Victorian WorkCover Authority can enforce compliance with all obligations by employers swapping from the Victorian scheme to the Comcare scheme;

remove any uncertainty about provisions relating to the necessary financial guarantees that must be provided by those companies; and

remove a discretion that existing self-insurers have in relation to tail claims, and mandate that they hand back the management of such claims to the Victorian WorkCover Authority, should they self-insure with Comcare.

This bill is about fiscal and social responsibility. It is about certainty for Victorian employers and workers and it is in the best interests of our state.

At the time the 2005 provisions were introduced, the Victorian WorkCover Authority's enforcement powers did not extend to penalising those large employers who swapped schemes in situations where they failed to meet their legislative obligations.

This created an inevitable incentive for those employers to not meet those obligations.

Similarly, the 2005 provisions required those employers exiting the Victorian scheme to provide financial guarantees with an authorised deposit-taking institution in respect of insolvency and claims deterioration, and the circumstances in which that guarantee could be recovered.

There have been some concerns raised about the clarity and enforceability of these obligations. It is therefore incumbent on the government to act in this area to ensure that those exiting the Victorian scheme do not do so to the detriment of other Victorian employers. This bill clarifies those obligations and puts in place penalties for non-compliance.

Finally, clarification is required around the tail-claim obligations of large employers exiting the Victorian scheme. At the time of the 2005 amendments, it was the intention to ensure that the existing claims of large employers at the time of transfer would remain within the Victorian system, so that appropriate safeguards for injured workers remained.

However, as the current legislation stands, there is nothing to prevent large companies exiting the Victorian scheme from retaining management of their tail claims, effectively preventing the WorkCover Authority from ensuring such claims are managed appropriately and in the interests of injured workers.

The amendments in the bill before the house seek to ensure that such a situation does not eventuate.

It is imperative that these fundamental changes be made to protect the nation's best-performing statutory workers compensation scheme and the workers and employers for which it was established.

This is a simple and straightforward matter of protecting Victorian interests — the interests of our workers, the interests of our employers and the interests of our WorkCover scheme.

I commend this bill to the house.

Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).

Debate adjourned until Thursday, 26 July.

CRIMES (DECRIMINALISATION OF ABORTION) BILL

Statement of compatibility

Ms BROAD (Northern Victoria) 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 Act (the charter), I make this statement of compatibility with respect to the Crimes (Decriminalisation of Abortion) Bill 2007.

In my opinion, the Crimes (Decriminalisation of Abortion) Bill 2007, as introduced in the Legislative Council, is compatible with the human rights protected by the charter.

I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Crimes Act 1958 to abolish the offences of unlawful abortion by the repeal of two relevant provisions in the Crimes Act 1958, to abolish any common law offences of unlawful abortion and to ensure the provision of safe and competent health services to women having an abortion.

Human rights issues

1. Human rights protected by the Charter that are relevant to the bill

This bill does not raise any human rights issues.

The charter protects and promotes the human rights of 'persons', or 'human beings', regarded under Victorian law as existing from the time a child is born alive and exists separate from, and independent, of their mother. The charter does not disturb this well-established legal position and expressly provides that the provisions of the charter do not affect the law applicable to unlawful abortion the subject of the bill (section 48 of the charter).

2. 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

I consider that the bill is compatible with, and does not limit, the human rights protected by the charter.

Candy Broad, MP

Second reading

Ms BROAD (Northern Victoria) — I move:

That the bill be now read a second time.

The purpose of this bill is to ensure the provision of safe and competent health services to women having an abortion and bring legislation regarding abortion into line with community expectations by abolishing the offences of unlawful abortion in the Crimes Act 1958 and in the common law.

It is estimated that one-third of all Australian women will undergo a therapeutic termination of pregnancy, otherwise known as abortion, at some stage during their lives. These women are our friends, our sisters, our partners, our children. We have a responsibility to ensure the provision of safe, legal and accessible medical services to them.

Abortion is currently included in sections 65 and 66 of the Victorian Crimes Act. These sections provide that the criminal offence of 'unlawful abortion' can be committed by people within one of two broad categories. The first category comprises pregnant women, who self-induce their own abortion, or who might be regarded as a party to an unlawful abortion performed by another person. The second category comprises providers of abortion services. That is those who perform therapeutic termination procedures, or assist in the performance of those procedures, by obtaining or supplying drugs or instruments.

The actions of people engaged in activities in the conduct of pregnancy termination services, other than the actual performance of surgical procedures or the ordering or administration of drugs, may come within the statutory provisions or be regarded as aiding and abetting the commission of an unlawful abortion. This could include a doctor who refers a pregnant patient to a termination clinic, nurses or counsellors undertaking assessment or providing psychological support, and even administrative assistants performing routine administrative tasks.

It is conceivable then, that currently, the actions of all people involved in operating a termination service could attract criminal liability.

Safe, if not legal, abortion became a reality for women in Victoria in 1969 when Justice Menhenitt ruled in the Victorian Supreme Court that abortion was lawful if it was considered necessary to safeguard the physical and mental health of the pregnant woman and that the circumstances were not out of proportion to the danger to be averted. This was an important ruling for women and doctors at the time and was a major contributor to the end of so called 'backyard abortions'. It was appropriate at the time and reflected community attitudes.

While the Menhenitt ruling was an important development in the provision of safe abortions, the ongoing inclusion of abortion in the Crimes Act means that women seeking an abortion and the health professionals who assist them are open to the risk of prosecution. This situation presents a significant barrier to accessibility.

The decision to continue or terminate an unplanned and/or unwanted pregnancy is always difficult and the reasons women may choose to terminate a pregnancy vary. The British Medical Association identifies a number of reasons why women seek abortion at various stages of gestation and difficulty in accessing services is a key reason given.

Greater Melbourne is serviced by only a handful of private clinics and public hospitals. The scarcity of public services forces women into the private sector where costs are higher.

Rural women, in particular, are disadvantaged by the current legal status of abortion because it can result in hospitals and doctors not providing a full range of medical services to their communities, including reproductive health services, and including termination services.

In rural and regional areas of Victoria, such as in my electorate of Northern Victoria Region, the situation is critical with few private clinics and access to terminations in public hospitals limited or unavailable. Women in rural communities also face barriers such as low numbers of general practitioners, particularly those who bulk bill, long waiting lists and potential concerns