

## EDUCATION AND TRAINING REFORM MISCELLANEOUS AMENDMENTS BILL

### *Statement of compatibility*

#### **Ms PIKE (Minister for Education) 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 Education and Training Reform Miscellaneous Amendments Bill 2007.

In my opinion, the Education and Training Reform Miscellaneous Amendments Bill 2007, 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 bill**

The bill amends the Education and Training Reform Act 2006 by introducing a range of measures to assist in the administration of that act and to reflect recent machinery of government changes. It will also make statute law revision changes and technical amendments to improve the drafting of the act, and address other matters which have arisen since it was passed.

The more significant provisions establish a process for the approval of providers of overseas student exchange programs; prevent double payments in respect of personal injuries to volunteer school workers; permit the registration of home schooling for students up to 18 years of age, require criminal records checks for registered teachers to be undertaken every five years, enable the Victorian Institute of Teaching to obtain teacher details from their employers, and widen the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching where a teacher is charged or convicted.

#### **Human rights issues**

##### **1. Human rights protected by the charter that are relevant to the bill**

The only human right that might be impacted by the bill is the right to privacy under section 13(a) of the Charter of Human Rights and Responsibilities. That subsection states that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The word 'arbitrary' requires that any interference be reasonable in the circumstances.

It is considered that, although clauses 9, 10 and 11 of the bill engage the section 13 right, they do not limit that right.

Clause 9 of the bill inserts a new section 2.6.22A in the act to require the Victorian Institute of Teaching to undertake a criminal record check on a registered teacher every five years.

Clause 10 of the bill inserts a new section 2.6.26A in the act and enables the Victorian Institute of Teaching to obtain from the employers of teachers the names of the teachers, the teacher's registration number and date of birth.

Clause 11 of the bill amends section 2.6.31 of the act so as to widen the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching on becoming aware that a teacher has been charged with, committed for trial or convicted of any of those offences.

None of the clauses involve an 'unlawful' interference with privacy. They will not be unlawful as the bill, or the act once it is passed by Parliament, will provide for the action referred to in those clauses to occur.

For the following reasons, none of the clauses involve an arbitrary interference with privacy.

The requirement under clause 9, for the Victorian Institute of Teaching to undertake a criminal record check on a registered teacher every five years, is being introduced for consistency with criminal record checks under the Working with Children Act which last for five years, and to ensure that any criminal conduct engaged in interstate by a teacher is identified. Whilst section 2.6.22 of the current act requires the chief commissioner to notify the Victorian Institute of Teaching if a registered teacher is charged with or convicted of a sexual offence against a child, the chief commissioner's records only relate to offences in Victoria. A full criminal record check on the other hand is undertaken on a nationwide database, and will also pick up offences other than sexual offences against children. These other offences might also be relevant in assessing a person's suitability to be a teacher.

Clause 10, which enables the Victorian Institute of Teaching to obtain from the employers of teachers the names of the teachers, the teacher's registration number and date of birth, is being introduced to enable the Victorian Institute of Teaching to crosscheck its teacher registration details against details of persons employed in schools as teachers. It is vital that our children are taught by properly trained and registered teachers, and that any that have been deregistered for criminal offences are not teaching in our schools.

Clause 11, which widens the category of criminal offences which the Chief Commissioner of Police must inform the Victorian Institute of Teaching on becoming aware that a teacher has been charged with, committed for trial or convicted of any of those offences, will mirror the change to the Victorian Institute of Teaching Act 2001 that was made under section 53 of the Working with Children Act 2005. The offences cover violent offences like murder, and various drug offences. As stated earlier, section 2.6.22 of the current act requires the chief commissioner to notify the Victorian Institute of Teaching if a registered teacher is charged with or convicted of a sexual offence against a child. These extra offences are all relevant to the issue of whether the teacher should continue to be registered.

##### **2. Consideration of reasonable limitations — section 7(2)**

As the bill does not limit human rights, it is not necessary to consider section 7(2) of the charter.

#### **Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit human rights.

BRONWYN PIKE, MP  
Minister for Education