

Baillieu, Mr
Blackwood, Mr
Burgess, Mr
Clark, Mr
Crisp, Mr
Delahunty, Mr
Dixon, Mr
Fyffe, Mrs
Hodgett, Mr
Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Morris, Mr
Mulder, Mr

Northe, Mr
O'Brien, Mr
Powell, Mrs
Shardey, Mrs
Smith, Mr K.
Smith, Mr R.
Sykes, Dr
Thompson, Mr
Tilley, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Weller, Mr
Wells, Mr

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Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Brooks, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Eren, Mr
Foley, Mr
Graley, Ms
Green, Ms
Hardman, Mr
Harkness, Dr
Helper, Mr
Holding, Mr

Hudson, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Lim, Mr
Lupton, Mr
Marshall, Ms
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Richardson, Ms
Scott, Mr
Seitz, Mr
Stensholt, Mr
Trezise, Mr
Wynne, Mr

Motion defeated.

The SPEAKER — Order! I remind members for the second time this morning that if mobile phones are brought into the chamber, they must be on silent. The only alternative would be to ban the bringing in of mobile phones to the chamber. I seek members' cooperation in this matter.

Statement of compatibility

Mr CAMERON (Minister for Police and Emergency Services) 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 (the charter), I make this statement of compatibility with respect to the Equal Opportunity Amendment (Family Responsibilities) Bill 2007 (the bill).

In my opinion, the bill, 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 Equal Opportunity Act 1995 to provide that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate the parental or carer responsibilities of a person offered employment, an employee, a contract worker, a person invited to become a partner in a firm or a partner in a firm. All relevant facts and circumstances must be considered in determining whether a refusal was unreasonable, including the needs of the employer, principal or firm, and the circumstances of the worker who has requested the accommodation.

The bill also clarifies the meaning of discrimination in the Equal Opportunity Act, and makes it discrimination for an employer, principal or firm to contravene the requirement not to unreasonably refuse to accommodate parental or carer responsibilities.

Human rights issues

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

Section 3(1) of the charter defines discrimination to mean discrimination within the meaning of the EO act on the basis of an attribute set out in that act. This includes the attribute of parental status or status as a carer on which the amendments in the bill are based.

The bill amends the meaning of discrimination in the Equal Opportunity Act to include discrimination constituted by a contravention of the new sections dealing with unreasonable refusals to accommodate (sections 13A, 14A, 15A and 31A) as well as current sections 51 and 52 of the Equal Opportunity Act. This means that discrimination under the charter will now include this wider meaning.

For example, section 8 of the charter provides that everyone has the right to recognition and equality before the law. Under section 8(2), every person has the right to enjoy his or her human rights without discrimination and under section 8(3), every person is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. With the amendments in the bill, these rights will include not being unreasonably disadvantaged in the workplace because of parental and carer responsibilities. It is noted that section 8(4) of the charter provides that measures taken for the purpose of assisting or advancing persons disadvantaged because of discrimination do not constitute discrimination.

The bill is also compatible with section 17 of the charter, which provides for the protection of families and children. Section 17(2) recognises that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 17(2) recognises that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

The bill therefore enhances human rights without limiting them.

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.

ROB HULLS, MP
Attorney-General

Second reading

Mr CAMERON (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

The Victorian government has a clear and unequivocal commitment to protecting Victorian families and helping working Victorians find a decent balance between their work and family responsibilities. Parents and carers need to know that they will not be disadvantaged because of their responsibilities, or prevented from fully participating in the workforce.

We particularly recognise the harm WorkChoices is having, and will continue to have, on the ability of Victorian families to pay mortgages, household bills and provide for their children's future.

As we are well aware, WorkChoices has attacked the rights of working families by cutting wages and conditions but also introducing AWAs that even the federal government's own research shows are bad for working families: their own study of individual and collective agreements shows that those on collective arrangements have a much greater chance of having family-friendly provisions.

WorkChoices is an undeniably anti-family policy which embodies unfairness. For its part, the Victorian government will always stand up for working families, and the Equal Opportunity Amendment (Family Responsibilities) Bill is designed to do exactly that.

The bill amends the Equal Opportunity Act 1995 to provide further protection from discrimination in the workplace to workers with parental and carer responsibilities. As such, the bill enhances the objectives of the Equal Opportunity Act, by promoting recognition and acceptance of everyone's right to equality of opportunity, and eliminating discrimination as far as possible.

10:35 The bill does this by providing that an employer, a principal or a firm must not, in relation to work arrangements, unreasonably refuse to accommodate a person's parental or carer responsibilities. New provisions are to be inserted in part 3 of the Equal Opportunity Act setting out this requirement, and the meaning of 'discrimination' is to be amended to make

clear that a contravention of the requirement is discriminatory conduct.

The bill includes examples of how a worker's responsibilities might be accommodated. For example, an employer may be able to accommodate an employee's responsibilities by allowing the employee to work from home on a particular morning each week to look after their child, or to reschedule a regular staff meeting so that a part-time employee can attend.

These are, of course, simply examples of possible work arrangements. There may be a number of ways in which an employee's responsibilities might be accommodated, depending on all the circumstances.

The bill seeks to balance the needs of the working parent or carer and the disadvantage suffered by them if their family responsibilities are not accommodated, with the capacity of the employer, principal or firm to accommodate the responsibilities and the impact of doing so. Importantly, the bill only requires an employer, principal or firm to accommodate the responsibilities, where this is reasonable. It does this by providing that a breach will only occur where an employer, principal or firm unreasonably refuses to accommodate the person's parental or carer responsibilities, taking into account all relevant facts and circumstances.

A list of considerations is included in the bill in order to determine whether a refusal is unreasonable. The considerations include:

- the nature of the person's work and family responsibilities
- the nature and cost of the arrangements required to accommodate the responsibilities
- the financial circumstances of the employer, principal or firm
- the size and nature of the workplace and the business of the employer, principal or firm
- the effect on the workplace of the accommodation, including the financial impact on the business
- the consequences for the employer, principal or firm of making the accommodation
- the consequences for the person of not making the accommodation.

This list is not exhaustive, and none of these factors are determinative on their own. They are, however,