

regulations almost a year after the Victorian act was passed and also due to ongoing discussions by the Standing Committee of Attorneys-General to settle a final form of the proposed regulations. Accordingly, further heads of power must be inserted into the Victorian act in order to ensure that the Victorian regulations can be made consistently with other jurisdictions.

B. Establishing a new and separate Professional Standards Council Fund

Section 52 of the act provides that a trust fund shall be established in the public account into which money appropriated by Parliament or fees paid to the council under the act should be paid. The Victorian council is an independent statutory body which is now operating under a national framework that was not in existence when this act was passed. The proposed amendment seeks to better reflect the council's independent status by separating the council trust fund out of the public account. Further, the current provision could more clearly set out the ways in which the Victorian council can apply any funds credited to its account for its activities. As a result, the act will be amended to effectively close the current trust fund in the public account, transfer existing funds into the new statutory fund and provide clearer guidance as to how the funds might be used by the council in performing its functions. There will be no loss of accountability in terms of how money is received into or paid out of the fund as the council is still required under the act to provide an annual report to Parliament covering both its operations and its finances.

C. Amendment to enable limited delegations by the council and to enable the council to enter into agreements with other parties

Finally, this bill will allow the council to make delegations to the Secretary of the Department of Justice or an executive officer to exercise some of the administrative functions on the council's behalf. The council consists of part-time members who meet between 8 to 10 times annually to consider, review and approve professional standards schemes. The council's members are professional members who hold other positions or are engaged in full-time work. This will facilitate the practical arrangements necessary for the administration of the national framework under the intergovernmental agreement without placing an undue burden on the council members themselves.

Under the intergovernmental agreement, parties have agreed to establish a common national secretariat to service all state and territory councils. The secretariat

operates from within the New South Wales Attorney General's Department. The establishment of a common secretariat provides cost and resource savings for the Victorian government that would otherwise be incurred if a separate secretariat were to be established for the Victorian council. It is intended that by providing a delegation of powers from the Victorian council to the Department of Justice, the department can enter into such arrangements, on the council's behalf, with the NSW Attorney General's Department for the provision of secretariat services. The council may specify conditions, restrictions or limitations on that delegation by virtue of the operation of the Interpretation of Legislation Act 1984.

In conclusion, this bill will facilitate necessary machinery amendments to the Victorian act to enable nationally agreed commitments concerning the administration of professional standards legislation to be implemented in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Wednesday, 6 June.

OUTWORKERS AND CONTRACTORS LEGISLATION AMENDMENT BILL

Statement of compatibility

Mr HULLS (Minister for Industrial Relations) 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 Outworkers and Contractors Legislation Amendment Bill 2007 (the bill).

In my opinion the bill, as introduced in 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 Outworkers (Improved Protection) Act 2003 and the Owner Driver and Forestry Contractors Act 2005.

In respect of the Outworkers (Improved Protection) Act 2003 it ensures that all Victorian outworkers are entitled to the wages and conditions contained in the Australian fair pay and conditions standard.

In respect of the Owner Driver and Forestry Contractors Act 2005 it provides that, where a hirer terminates a contractor and elects to make payment in lieu of notice of termination,

the payment will consist of an amount in lieu of the fixed costs a contractor in accordance with the rates and costs schedules developed under the act. It will clarify that contractors are not entitled to payment in respect of variable costs, and only contractors subject to finance arrangements are entitled to a component of notice referable to these costs.

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

As a result of the federal government's amendments to the Workplace Relations Act 1996, the Outworkers (Improved Protection) Act 2003 no longer entitles an outworker to the same benefits, terms and conditions as a federal award employee because it only makes reference to benefits, terms and conditions contained in a relevant federal award. The change has had a disproportionate effect on women and persons of a non-English-speaking background, who comprise the majority of outworkers. The bill introduces a provision to ensure that outworkers are entitled to the same benefits, terms and conditions as those that would apply under a federal award or the Australian fair pay and conditions standard.

The bill does not intrude on the right of every person to the equal protection of the law without discrimination contained in section 8 of the charter. Discrimination is an impermissible differential treatment based on one or more of the attributes listed in the Equal Opportunity Act 1995. The bill does not contain any provisions which constitute discrimination. In fact the bill contains a measure taken for the purpose of assisting or advancing a group of persons (outworkers) which are disadvantaged, and is therefore consistent with the aims of section 8(4) 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.

ROB HULLS, MP
Minister for Industrial Relations

Second reading

Mr HULLS (Minister for Industrial Relations) — I move:

That this bill be now read a second time.

In the current climate, with the Howard government attacking ordinary working people through its WorkChoices and independent contractor legislation, the Victorian government is doing everything it can to ensure fairness for vulnerable workers and contractors in Victoria.

This bill is a further demonstration of the Bracks government's continuing commitment to ensure fairness for Victorians across the many non-standard work arrangements which exist in our community.

The Victorian Outworker (Improved Protection) Act provides protection from exploitation for clothing outworkers in Victoria.

The Owner Driver and Forestry Contractors Act ensures that contractors in those industries have the information and assistance necessary to operate their own businesses, bargain on equal footing and seek redress where unfairness occurs.

These two acts are supported by relevant industry councils and stakeholders.

This bill makes technical amendments to the two acts to ensure their ongoing effectiveness.

Outworkers

The government has a longstanding commitment to protecting clothing outworkers in Victoria.

Outworkers are an extremely vulnerable group of workers. They are a largely invisible workforce, predominantly migrant women, with poor English skills, working alone from their homes.

In 2003, the government introduced the Outworkers (Improved Protection) Act to ensure outworkers in the Victorian clothing industry received their lawful entitlements and, in 2005, we made amendments to that act to strengthen those protections.

Sham contracting arrangements are often used in the clothing industry to exploit outworkers and give them no say over their working hours or conditions. The Outworkers (Improved Protection) Act gives all outworkers equal protection of their terms and conditions, regardless of whether they are called independent contractors or employees.

However, as a result of the federal government's WorkChoices legislation, many outworker entitlements to pay and conditions have been moved from federal awards and are now contained in the Australian fair pay and conditions standard.

The Australian fair pay and conditions standard only protects outworkers who are classed as employees. This creates confusion, complexity and uncertainty for both outworkers and the businesses that engage them, and allows unscrupulous operators to create sham contracts to avoid their obligations.

The amendments we propose in the bill will ensure that all Victorian outworkers are entitled to the pay and conditions which are now contained in the Australian