

Debate adjourned until Wednesday, 6 June.

*** COURTS LEGISLATION AMENDMENT
(JUDICIAL EDUCATION AND OTHER
MATTERS) BILL**

Statement of compatibility

Mr HULLS (Attorney-General) tabled following document 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 Courts Legislation Amendment (Judicial Education and Other Matters) Bill 2007.

In my opinion, the Courts Legislation Amendment (Judicial Education and Other Matters) 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 proposed bill contains amendments to the Constitution Act 1975, the Supreme Court Act 1986, the County Court Act 1958, the Magistrates' Court Act 1989, the Victorian Civil and Administrative Tribunal Act 1998 and the Children, Youth and Families Act 2005.

Amendments to the Supreme Court Act 1986, the County Court Act 1958, the Magistrates' Court Act 1989 and the Victorian Civil and Administrative Tribunal Act 1998 will establish legislative support for judicial education. The relevant head of each jurisdiction will be responsible for directing the professional development and training of judicial officers (judges, masters, magistrates or members, as appropriate) within their respective jurisdictions.

The amendments to the Constitution Act 1975 relate to the commission, seniority and retirement of Supreme Court judges and the entitlement of certain judges or their spouses to a pension.

The amendments to the Constitution Act 1975 and Supreme Court Act 1986 will enable the Court of Appeal to be constituted by a master for procedural applications in civil proceedings, providing legislative support for a program of civil appeal reform in the Court of Appeal designed to improve case management and reduce delay.

The amendments to the County Court Act 1958 will provide that an order as to costs may not be subject to appeal to the Court of Appeal except by leave of the Court of Appeal or the County Court and will ensure that an appeal does not operate as a stay unless so ordered by the County Court or the Court of Appeal.

The amendment to the Children, Youth and Families Act 2005 will extend the commencement of the sunset date for children's Koori Court to 1 July 2009.

Human rights issues

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

Section 8(3) of the charter provides that 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.

The amendment to continue the Koori Court (criminal division) of the Children's Court to 1 July 2009, engages section 8(3) of the charter, in that the jurisdiction of the Koori Court is limited to offences committed by Aboriginal children, therefore discriminating against children who are not Aboriginal.

Section 8(4) of the charter provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination. A purpose of the Koori Court is to assist persons who are disadvantaged and, therefore, the proposed amendment to the Koori Court is compatible with the charter.

The preamble to the charter provides that human rights have a special importance for Aboriginal people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with their traditional lands and waters.

Section 8(2) of the charter provides that every person has the right to enjoy his or her rights without discrimination. The amendment to the Constitution Act 1975 regarding reversionary pensions positively engages section 8(2) of the charter, in that the amendment is intended to fix the anomaly that currently exists in the constitution relating to the entitlement of a judge's spouse to a reversionary pension.

Currently, the spouse of a judge, who is appointed before the age of 60 and dies in office or after retirement, is entitled to a reversionary pension. This entitlement only applies where the judge is appointed before the age of 60. If a judge is appointed after the age of 60, his or her spouse has no entitlement to a reversionary pension.

This amendment positively engages section 8(2) of the charter. It rectifies a provision which discriminates on the basis of age and is incompatible with the charter. The amendment is therefore compatible with the charter.

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

As the bill has no impact on 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 raise a human rights issue.

ROB HULLS, MP
Attorney-General

Second reading

16:17

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.