

SCRUTINY OF ACTS AND
REGULATIONS COMMITTEE

EXCEPTIONS AND EXEMPTIONS TO
THE EQUAL OPPORTUNITY ACT 1995

OPTIONS PAPER

MINORITY REPORT

7 MAY 2009

Introduction

The Governor, on the advice of the Executive Council, pursuant to section 33 of the *Parliamentary Committees Act 2003* requested on 18 December 2008 that the Scrutiny of Acts and Regulations Committee of Parliament (“the Committee”) to inquire into, consider and report to Parliament on whether any amendments should be made to the exceptions and exemptions in the *Equal Opportunity Act 1995*, (“the Inquiry”).

The Committee was requested to provide its final report to Parliament by 30 April 2009.

Background

The Coalition Parties have a proud history of advocating for and advancing the interests of individual liberty and those who face discrimination in our society.

The original *Equal Opportunity Act* was enacted in 1977 by the Hamer Government. At the time the legislation caused much controversy in the community.

The last time the *Equal Opportunity Act* (“the Act”) was rewritten was by the Kennett Government in 1995 under the direction of the then Attorney-General, the Hon. Jan Wade.

In August 2007 the Attorney-General announced a review of the Act, this review specifically excluded the exemptions and exceptions to the Act. Concurrently, the Department of Justice began an Exceptions Review and released a Consultation Paper in February 2008 and called for public submissions which closed on 18 August 2008. Over 500 submissions were received.

Process

We presume that the Department of Justice has completed its Exemptions Review. The Government, however, has failed to make public that review and is asking the Committee to replicate much of the work which presumably has been done by the Department. It would have been helpful for the Committee and the broader public to have the completed review to ensure that the work being done by the Committee is not merely repeating what has already been completed.

We are also concerned that with a possible replication of work significant taxpayer funds are being wasted. The engagement of the external consultant, together with the time and resources of the Committee Secretariat, means this inquiry will cost tens of thousands of dollars.

We call on the Attorney-General to release any subsequent report on the Exemptions Review completed by the Department of Justice as a matter of urgency.

Time to complete the Report

The Inquiry was listed in the Victorian Government Gazette on 18 December 2008 with a report date of 30 April 2009. Given the time taken for the Departmental review, the time provided is not sufficient for the Committee to complete the Inquiry in an appropriate fashion. The issues before the Committee are complex and include many community stakeholders.

The timing given to the Committee to report to Parliament has resulted in the Committee not yet having had the time to seek submissions from the community and has had to rely to date on the non confidential material previously provided to the Department of Justice.

As at the date of this Report the Committee does not know whether or not an extension to the reporting date will be provided.

The view of the undersigned is that additional expense to the taxpayer should not be incurred until a clear timetable is provided for the tabling of legislation and a realistic date for the Committee to complete the Inquiry. Additional taxpayer funds should not be expended until the Government commits to the Final Report of the Committee being tabled before any legislation is introduced so that the work of the Committee can be considered.

The Exceptions in the Act

The exceptions in the Act cover a range of broad categories, which could be summarised around the general groupings of:

1. Exceptions to discrimination in employment and employment related areas;
2. Exceptions to discrimination in education;
3. Exceptions to discrimination in the provision of goods and services;
4. Exceptions to discrimination in accommodation;
5. Exceptions to discrimination by clubs and club members;
6. Exceptions to discrimination in sport and local government;
7. General Exceptions.

The Options Paper deals in reasonable detail with the issues associated with the different Exceptions. The Report canvasses some of the views within the community about the Exceptions. However, we wish to emphasise some issues.

One factor which has not been discussed is the current economic climate which has seen and will continue to see employers through out Victoria struggling with the current economic downturn. Recent Commonwealth legislative changes have created a different industrial relations environment, an environment which may take some adjustment for small business. We are concerned that at this difficult time further change or discussion of change, to the industrial relations environment may increase the anxiety of employers and have a consequential impact on employment.

The under signed acknowledge the significant role played by schools which are based on a religious belief or conviction and their desire to retain their independence. In a

democratic country such as Australia parents should have the right to choose the value systems in which their children will be surrounded throughout their education.

The undersigned are also concerned to ensure that this review and any legislative changes flowing from it, do not compromise the rights of the individual to freedom of association. We believe that the involvement of the State in the lives of private individuals should, where possible, be kept to a minimum.

Ken Jasper
Deputy Chair

Inga Peulich
Committee member

Ryan Smith
Committee member

Edward O'Donohue
Committee member