

LEGISLATIVE COUNCIL

WORKING WITH CHILDREN AMENDMENT BILL 2012

(Amendments to be proposed in Committee by Mr DALLA-RIVA)

1. Clause 17, lines 4 to 33, omit all words and expressions on these lines and insert—  
    'For clause 102 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, substitute—  
    "**102 Review of category 2 application**  
    (1) If the proceeding relates to the giving of a negative notice on a category 2 application within the meaning of the **Working with Children Act 2005**, the Tribunal must determine that it is appropriate to refuse to give an assessment notice unless satisfied that giving the assessment notice would not pose an unjustifiable risk to the safety of children having regard to any matters to which the Secretary must have regard under section 13(2) of that Act.  
    (2) In satisfying itself that giving an assessment notice would not pose an unjustifiable risk to the safety of children, the Tribunal must be satisfied that—  
        (a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any type of child-related work; and  
        (b) the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.  
    (3) Even if the Tribunal is satisfied under subclauses (1) and (2) that giving an assessment notice would not pose an unjustifiable risk to the safety of children, the Tribunal must determine that it is appropriate to refuse to give the assessment notice unless it is satisfied that it is in the public interest to give the assessment notice."'.
2. Clause 18, lines 2 to 29, omit all words and expressions on these lines and insert—  
    'For clause 103 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, substitute—  
    "**103 Review of category 3 application**  
    (1) If the proceeding relates to the giving of a negative notice on a category 3 application within the meaning of the **Working with Children Act 2005**, the Tribunal must determine whether in the particular circumstances it would be appropriate to refuse to give an assessment notice, having regard to any matters to which the Secretary must have regard under section 14(3) of that Act.

- (2) The Tribunal must determine that it is appropriate to refuse to give an assessment notice unless the Tribunal is satisfied that—
  - (a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any type of child-related work; and
  - (b) the applicant's engagement in any type of child-related work would not pose an unjustifiable risk to the safety of children.
- (3) Even if the Tribunal does not determine under subclause (1) or (2) that it would be appropriate to refuse to give an assessment notice, the Tribunal must determine that it is appropriate to refuse to give the assessment notice unless it is satisfied that it is in the public interest to give the assessment notice."!