

LEGISLATIVE COUNCIL

EQUAL OPPORTUNITY BILL 2010

(Amendments and New Clause to be proposed in Committee by Ms PENNICUIK)

1. Clause 4, page 8, line 14, after "one sex" insert "or raised as being of one sex".
2. Clause 4, page 9, after line 2 insert—
 "**homelessness**, in relation to a person, means—
 - (a) living in—
 - (i) crisis accommodation; or
 - (ii) transitional accommodation; or
 - (iii) any other accommodation provided under the Supported Accommodation Assistance Act 1994 of the Commonwealth; or
 - (b) having inadequate access to safe and secure housing within the meaning of section 4 of the Supported Accommodation Assistance Act 1994 of the Commonwealth;".
3. Clause 4, page 10, after line 36 insert—
 "**irrelevant criminal record**, in relation to a person, means a record relating to arrest, questioning or criminal proceedings where—
 - (a) further action was not taken in relation to the arrest, questioning or charge of the person; or
 - (b) a charge has not been laid; or
 - (c) the charge was dismissed; or
 - (d) the prosecution was withdrawn; or
 - (e) the person was discharged, whether or not on conviction; or
 - (f) the person was found not guilty; or
 - (g) the person's conviction was quashed or set aside; or
 - (h) the person was granted a pardon; or
 - (i) the circumstances relating to the offence for which the person was convicted are not directly relevant to the situation in which the discrimination arises;".
4. Clause 6, after line 9 insert—
 "() homelessness;".

5. Clause 6, after line 11 insert—
"() irrelevant criminal record;".
6. Clause 6, after line 21 insert—
"() any other status;".
7. Clause 9, after line 19 insert—
"() whether the requirement, condition or practice is legitimate, necessary and proportionate in the circumstances;".
8. Clause 12, line 33, omit "members of a group" and insert "persons, or members of a group,".
9. Clause 12, line 34, after "attribute" insert "or with particular attributes" .
10. Clause 12, page 23, lines 24 and 25, omit "members of a group" and insert "persons, or members of a group,".
11. Clause 12, page 23, line 26, omit "assistance." and insert "assistance; and".
12. Clause 12, page 23, after line 26 insert—
"() be designed and implemented in consultation with, and with the active participation of, the persons or members of the group.".
13. Heading to clause 26, omit "**genuine occupational requirements**" and insert "**inherent requirements**".
14. Clause 26, lines 16 and 17, omit "a genuine occupational requirement" and insert "an inherent requirement".
15. Clause 26, line 20, omit "a genuine occupational requirement" and insert "an inherent requirement".
16. Clause 72, lines 2 and 3, omit "or with a gender identity".
17. Clause 75, line 5, omit "a provision" and insert "a prescribed provision".
18. Clause 75, line 10, after "purpose of" insert "prescribing a provision for the purpose of".
19. Clause 75, after line 14 insert—
"(3) A prescribed provision expires—
 - (a) if it was enacted or made before the commencement of this section, at the end of 12 months after the commencement of this section;
 - (b) if it is enacted or made after the commencement of this section, at the end of 12 months after it is enacted or made.

- (4) In this section, *prescribed provision* means—
- (a) section 220DA(3) of the **Transport Act 1983**; or
 - (b) a provision of an Act or an enactment that is prescribed for the purpose of this section."
20. Clause 81, lines 2 to 9, omit all words and expressions on these lines and insert—
- "For the purposes of sections 82 and 83, *religious body* means a body established for a religious purpose."
21. Clause 82, lines 23 to 33, omit all words and expressions on these lines.
22. Clause 82, page 71, lines 1 to 16, omit all words and expressions on these lines and insert—
- "() Nothing in Part 4 applies to anything done in good faith in relation to the employment of a person by a religious body where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position."
23. Clause 83, lines 23 to 35, omit all words and expressions on these lines.
24. Clause 83, page 72, lines 1 to 18, omit all words and expressions on these lines and insert—
- "() Nothing in Part 4 applies to anything done in good faith in relation to the employment of a person by a person or body to which this section applies where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position."
25. Clause 84, omit this clause.
26. Clause 89, line 34, omit "5" and insert "3".
27. Clause 89, page 75, line 4, omit "5" and insert "3".

NEW CLAUSE

28. Insert the following New Clause to follow clause 83—
- "A Application of reasonable limitation test to sections 82 and 83**
- Sections 82 and 83 do not apply unless the thing done on the basis of a person's attribute is a reasonable limitation on the person's right to freedom from discrimination on the basis of that attribute, taking into account all relevant factors including—
- (a) the nature of the right; and
 - (b) the importance of the purpose of the limitation; and
 - (c) the nature and extent of the limitation; and
 - (d) the relationship between the limitation and its purpose; and

(e) any less restrictive means reasonable available to achieve the purpose that the limitation seeks to achieve.".