

LEGISLATIVE ASSEMBLY

Read 1 4 May 1988

(Brought in by Mr McCutcheon and Mr Fordham)

A BILL

for the recognition and declaration of human rights and fundamental freedoms, to amend the *Constitution Act 1975* and for other purposes.

Constitution (Declaration of Rights and Freedoms) Act 1988

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to recognise and declare certain human rights and fundamental freedoms.

5 Commencement.

2. This Act comes into operation on a day to be proclaimed.

Amendment of *Constitution Act 1975*.

3. (1) After Part II of the *Constitution Act 1975* insert—

No. 8750.
Reprinted to No.
10146 and
subsequently
amended by Nos.
10244, 1/86,
16/86, 61/86,
110/86, 117/86,
4/87, 46/87 and
48/87.

“PART IIAA.—DECLARATION OF RIGHTS AND FREEDOMS”

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2—[215]—1000/5.5.1988—43410/88—(Revision No. 4) (921)

Intention of Parliament.

“74AA. It is the intention of the Parliament that the Declaration contained in this Part—

- (a) should not be construed as limiting the supremacy of the Parliament; and 5
- (b) should guide the Parliament in the protection of the rights and freedoms of people in Victoria; and
- (c) should not be enforceable at law; and
- (d) should not be construed as being a complete statement of the rights and freedoms of people in Victoria.” 10

Recognition and declaration.

“74AB. It is hereby recognised and declared that in Victoria everyone possesses the following human rights and fundamental freedoms without discrimination on the basis of race, colour, language, national or social origin, sex, religion, political or other opinion, disability or otherwise: 15

- (a) The right to life, liberty, security of the person and the enjoyment and ownership of property and the right not to be deprived thereof except by due process of law; 20
- (b) The right to equality before the law and the protection of the law;
- (c) Freedom of thought, conscience, religion, expression and opinion;
- (d) Freedom of peaceful assembly and freedom of association;
- (e) The right to vote and to be elected in free and genuine elections in accordance with accepted democratic principles; 25
- (f) The right to privacy;
- (g) The right to marry and to found a family;
- (h) The right not to be arbitrarily arrested, detained or imprisoned or to be subjected to unreasonable search or seizure; 30
- (i) The right, if arrested, detained, tried upon a criminal charge, or convicted of such a charge, to be dealt with at every stage according to the principles of fundamental justice;
- (j) The right, in the determination of any criminal charge or suit at law, to a fair and public hearing by an impartial and independent tribunal; 35
- (k) The right not to be convicted of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it occurred; nor, if convicted of a criminal offence, to be liable to a heavier penalty than was applicable at the time the offence was committed; nor, if acquitted or convicted of a criminal 40

offence, to be tried or punished again for the same, or substantially the same, offence;

- 5 (1) The right, if deprived of liberty, to be treated with humanity and with respect for the inherent dignity of the person;
- (m) The right not to be subjected to cruel or unusual punishment, or to medical or scientific experimentation.”

Other rights and freedoms.

10 “74AC. The recognition in this Declaration of certain rights and freedoms shall not be construed as denying the existence of any other rights and freedoms that exist in Victoria.”

Declaration not to create right of action.

 “74AD. This Declaration does not create any right of action.”.

 (2) In section 18 (2) (b) of the *Constitution Act 1975*, after “Part I,” insert “Part IIAA.”.

