

Witness Protection (Amendment) Bill

EXPLANATORY MEMORANDUM

- Clause 1 sets out the purpose of the proposed Act.
- Clause 2 provides for the commencement of the proposed Act on Royal Assent, except section 12.
- Clause 3 provides that the **Witness Protection Act 1991** is the Principal Act.
- Clause 4 provides definitions for approved authority, complementary witness protection law, Deputy Ombudsman and Ombudsman, register of marriages, State and Victorian witness protection program and substitutes a new definition of witness.
- Clause 5 inserts new sections 3A, 3B and 3C into the Principal Act providing for a Victorian witness protection program and detailing the powers of the Chief Commissioner to assist witnesses and the basis upon which witnesses are included on the program. New section 3C allows the Chief Commissioner to make special commercial arrangements for the purposes of the program.
- Clause 6 amends section 4 of the Principal Act to authorise the making of entries in the register of marriages.
- Clause 7 amends Section 5 of the Principal Act to require a memorandum of understanding to contain certain information, including a statement that advises the witness of his or her right to complain to the Deputy Ombudsman. The clause also sets out the requirements as to who may sign the memorandum.
- Clause 8 amends sections 6, 8 and 9 of the Principal Act to authorise the making of entries in the register of marriages. An entry can only be cancelled by Order of the Supreme Court.
- Clause 9 substitutes a new section 10 in the Principal Act creating offences in relation to disclosure of information relating to the making of an entry in the register of births or marriages for the purposes of witness protection and the disclosure of information relating to the entering of a memorandum of understanding or to the witness protection program. The provision does not apply in relation to disclosures made for the purposes of the Act or an investigation by the Deputy Ombudsman or to comply with an order of the Supreme Court.

Clause 10 amends section 12 of the Principal Act to extend immunity to the Ombudsman and the Deputy Ombudsman and to clarify that the section does not prevent the Deputy Ombudsman from investigating a complaint in relation to the Chief Commissioner or a member of the police force in relation to the Act. The clause also makes consequential amendments to refer to the register of marriages.

Clause 11 substitutes section 15 of the Principal Act, which removes the sunset provision, and inserts new sections 16 to 25. These sections provide as follows—

New section 15 provides special provisions in the event of proposed marriage by a witness with a new identity.

New section 16 provides for the cessation of protection and assistance to a witness.

New section 17 provides for notice of involuntary termination, review and appeal.

New section 18 details when involuntary termination take effect.

New section 19 provides for restoration of former identity.

New section 20 details when a decision to restore former identity takes effect.

New section 21 provides power for the Chief Commissioner to enter into arrangements with an approved authority.

New section 22 enables the Minister, by notice in the Government Gazette, to authorise an approved authority to perform certain functions.

New section 23 provides for the information which may be given to approved authorities.

New section 24 provides that the **Freedom of Information Act 1982** does not apply to certain documents in relation to the Victorian, Commonwealth and interstate witness protection programs.

New section 25 expressly amends section 85 of the **Constitution Act 1975** to limit the jurisdiction of the Supreme Court for the purpose of section 12(3) of the Principal Act.

New section 26 is a transitional provision to cover people who signed a memorandum of understanding before the amendments to be made by the Bill commence.

Clause 12 amends the Principal Act to reflect proposed changes in the Births, Deaths and Marriages Registration Bill.

