

Witness Protection (Amendment) Bill

Circulation Print

EXPLANATORY MEMORANDUM

General

The purpose of this Bill is to amend the **Witness Protection Act 1991** to enable authorities from other jurisdictions to apply for Victorian identity documents for witnesses in their witness protection programs, to provide for the extraterritorial operation of offences regarding disclosure of information about witnesses and for other purposes.

Clause Notes

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the Act to come into operation on the day after which it receives Royal Assent.
- Clause 3 defines the Principal Act as the **Witness Protection Act 1991**.
- Clause 4 amends the purpose of the Principal Act to extend beyond Victoria to elsewhere in Australia.
- Clause 5 provides for definitions of terms used in the Principal Act, "officer of an approved authority"; "participant" (a person who is included in the Victorian witness protection program); and "recognised participant" (a person who is included in a witness protection program established under a complementary witness protection law, but who is not included in the Victorian witness protection program).
- Clause 6 provides for officers of approved authorities to make new entries in the register of births or register of marriages.
- Clause 7 repeals section 5(1) of the Principal Act, as this duplicates section 3B(2)(c). The clause then makes a consequential amendment to section 5(1A) and a statute law revision

amendment to section 5(2)(i) because of the earlier repeal of section 5(2)(h).

- Clause 8 provides for an approved authority to make an application to the Victorian Supreme Court for an order to make new entries in the register of births or register of marriages.
- Clause 9 extends the power of the Supreme Court to make orders in regard to recognised participants. The clause also repeals section 7(c) of the Principal Act, which is rendered unnecessary by the new section 7(a).
- Clause 10 extends the effect of an authorising court order to recognised participants.
- Clause 11 provides for circumstances under which entries made on the register of births or register of marriages may be cancelled for both participants and recognised participants.
- Clause 12 restates the penalties for disclosure offences in accordance with section 109 of the **Sentencing Act 1991** and applies certain of those offences extraterritorially.
- Clause 13 extends immunity from proceedings to officers of approved authorities for things done in the course of duty in accordance with the Principal Act.
- Clause 14 sets out special provisions required from participants and recognised participants in the case of marriage to ensure that they don't compromise the integrity of the witness protection scheme or expose themselves or others to danger.
- Clause 15 sets out requirements on an approved authority to have its staff trained and to maintain records relating to the original identity of a recognised participant.
- Clause 16 inserts a new section 21A in the Principal Act, which provides that approved authorities and their officers can only act under the Principal Act if they have entered into an official arrangement with the Victorian Chief Commissioner of Police.
- Clause 17 provides that the special freedom of information provisions contained in section 24 of the Principal Act extend to approved authorities.

- Clause 18 inserts a new section 24A in the Principal Act, which is a double jeopardy provision. That is, if something is an offence under the Principal Act and also under the law of another Australian jurisdiction, a person cannot be prosecuted under the Principal Act if they have been convicted or found guilty in the other jurisdiction.
- Clause 19 substitutes section 25 of the Principal Act, to extend the current limitation of jurisdiction on the Supreme Court (in section 12 of the Principal Act) as a result of the immunity extended to officers of approved authorities by clause 13.
- Clause 20 corrects a numbering error in the Principal Act.

