

~~In conclusion, it is fair to say that motor racing events create unique tourism opportunities, not only in terms of the tens of thousands of spectators that they attract but also through the massive international viewing audience that they enjoy. This bill provides the framework that is needed to support our commitments to these events in Queensland. Personally I cannot wait to see the likes of Jamie Whincup, Garth Tander and Craig Lowndes race in Townsville, with Castle Hill looming in the background. And I am sure that international viewers throughout the world will see the spectacular climate, people and landscape of Townsville and seriously consider choosing it as the destination for their next holiday. I commend the bill to the House.~~

~~Debate, on motion of Mr Horan, adjourned.~~

CORRECTIVE SERVICES AND OTHER LEGISLATION AMENDMENT BILL

First Reading

Hon. JC SPENCE (Mount Gravatt—ALP) (Minister for Police, Corrective Services and Sport) (11.41 am): I present a bill for an act to amend the Corrective Services Act 2006, the Drugs Misuse Act 1986, the Health Act 1937, the Health (Drugs and Poisons) Regulation 1996 and the Limitation of Actions Act 1974 for particular purposes. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Second Reading

Hon. JC SPENCE (Mount Gravatt—ALP) (Minister for Police, Corrective Services and Sport) (11.41 am): I move—

That the bill be now read a second time.

This bill seeks to address the misuse of anti-discrimination legislation by offenders as a complaint mechanism and avenue to claim compensation for their treatment during imprisonment or supervision in the community. The bill limits the circumstances under which offenders may apply to the Anti-Discrimination Commission to resolve complaints and seek compensation and also limits the ability of the Anti-Discrimination Tribunal to make compensation awards to offenders.

Significantly, this bill provides for the setting up of a victims trust fund. If an offender is awarded compensation as a result of their treatment or an injury suffered in the correctional environment, the award of compensation will be frozen to enable victims to be notified and claim against the fund for injuries they have suffered as a result of the offenders' actions. This bill also restores balance to the limitations of actions legislation by allowing victims to have an extended period to make claims against offenders who receive compensation claims and by removing the extended time period that offenders have to institute proceedings. Finally, this bill makes specific provision for corrective services passive alert drug detection dogs to have access to drugs for their training. This will improve the way this government tackles an issue it takes very seriously, and that is the elimination of drugs in prisons.

The Corrective Services Act 2006 provides for the humane containment of prisoners. The act recognises that basic entitlements enjoyed by community members are necessarily diminished for prisoners by reason of the fact they are imprisoned. Prisoners in Queensland are provided with an appropriate standard of accommodation and food and are given access to programs to address their offending behaviour and prepare for release into the community.

There have been an increasing number of claims of discrimination made by offenders to the Anti-Discrimination Commission Queensland in relation to their treatment while in custody. These claims are being made for a range of matters that by community standards would constitute appropriate treatment and which this government considers to be fair given the operational constraints of the correctional environment. There has also been a concerning increase in the trend for prisoners to make complaints directly to the Anti-Discrimination Commission and bypass internal complaint mechanisms.

Offenders make frivolous and mischievous claims of discrimination and seek financial compensation. Awards of compensation serve to encourage other serial complainers to make mischievous and frivolous complaints to the Anti-Discrimination Commission. As a result, instead of offenders seeking to resolve issues through existing complaint mechanisms, some are going straight to the Anti-Discrimination Commission. Many of these claims relate to issues that could be more effectively resolved through internal complaints management processes that are available to them.

In correctional facilities there are a number of complaint mechanisms available. Queensland Corrective Services has internal complaints processes where prisoners can write to the general

manager of the prison with their complaint. Prisoners can also make complaints to official visitors. This accountability scheme was recently strengthened in the Corrective Services Act 2006 by providing for the chief inspector to oversee the official visitor scheme.

Finally, prisoners can complain to the Queensland Ombudsman to have matters related to their management investigated. Queensland Corrective Services is held accountable for its treatment of prisoners through these mechanisms and complaints can be effectively resolved in this way. The Corrective Services and Other Legislation Bill will make a number of changes to provide how offenders can make complaints of discrimination and how monetary compensation is treated through amendments to the Corrective Services Act 2006 and the Anti-Discrimination Act 1991. These changes will ensure that claims of discrimination by offenders are handled in accordance with the expectations of the community.

The bill inserts part 12A into the Corrective Services Act 2006 to change the way that discrimination complaints are made by offenders and handled first by correctional management and then by Queensland's Anti-Discrimination Commission and Anti-Discrimination Tribunal. The purpose of part 12A is to maintain a balance between the financial and other constraints to which correctional management are subject in their treatment of offenders and the need to continue to respect the offender's dignity. The purpose is achieved primarily by the use of existing complaints mechanisms within the correctional environment and modifying the way the Anti-Discrimination Act 1991 applies to the treatment of offenders by correctional management.

Offenders must make their complaint in writing, with separate processes in place for offenders in custody and those in the community. Corrective Services management has up to four months in which to deal with the offender's complaint and after that time the offender can lodge the complaint with the Anti-Discrimination Commission. There is an additional requirement for offenders in custody to make a complaint to an official visitor after correctional management has finished dealing with the complaint. This will ensure that offenders exhaust internal complaints processes before making an application to the Anti-Discrimination Commission.

The four-month time frame allows time for the complaint to be investigated and for an offender to consider whether to have that decision reviewed. If the complaint is not resolved, the offender can then proceed to the Anti-Discrimination Commission in accordance with division 3 of the new part 12A. Significantly, these amendments establish a new standard for determining whether direct or indirect discrimination has occurred under the Anti-Discrimination Act 1991. The Anti-Discrimination Tribunal must consider whether the treatment of the offender was reasonable within the unique correctional environment. The bill requires that the tribunal consider the same factors that correctional management do when deciding how to reasonably respond to an offender's request.

Correctional management receives many requests for 'special treatment' from offenders. When deciding how to respond to the requests, relevant factors include the safety and security of the correctional facility, the availability of resources, and the administrative and operational impact which may flow from granting a prisoner's request. A significant factor in considering these requests is about distinguishing between what the offender wants rather than what the offender needs and what will adequately, rather than ideally, meet those needs. In many circumstances, the same offenders who request differential treatment then go on to claim that what they have been provided does not ideally meet their needs and allege unfair treatment as a consequence.

015 An example of this was highlighted in the case of *State of Queensland v. Mahommed*, a decision of the Anti-Discrimination Tribunal. In this case, a convicted paedophile was awarded \$2,000 by the Anti-Discrimination Tribunal for both direct and indirect discrimination when he was provided, firstly, by correctional management with a vegetarian diet which met his religious beliefs and then, at his request in order to supplement his protein intake, was later provided with tinned halal meat. The bill modifies the operation of the Anti-Discrimination Act 1991 to ensure that when the Anti-Discrimination Tribunal hears an offender's complaint the tests for both direct and indirect discrimination reflect the reasonableness of the response in light of the nature of the correctional environment.

Prisons are operated under rigid controls in order to maintain the safety and security of facilities, which is paramount to the protection of the community. It cannot be expected that the same level of choice or services available to individuals in the community can be maintained within a correctional facility. Prisoners do not pay rent on their cell in prison, they are not paying for utilities such as water and electricity, they are not paying for their three meals a day or the clothes that they wear or the other number of services provided to them while in custody like individuals in the community. If they did pay, then perhaps they could choose to obtain a softer pillow or eat a specialised diet that caters for their personal tastes. The bottom line is that if you want choice, especially the option to choose the best product on the market or the most comprehensive service to meet your need, do not commit a crime. These people are in custody or under the supervision of Queensland Corrective Services because they have broken the law and in many cases have severely affected the lives of their victims as a consequence of their offending behaviour.

While prisons do provide opportunities for offenders to rehabilitate, it should not be forgotten that they are also places of punishment. Offenders need to know that if you come to jail your basic needs will be accommodated and you will be provided with basic medical care under the government's duty of care. However, this government is not running a hotel and an offender's every whim will not be accommodated. I seek leave to incorporate the rest of my speech in *Hansard*.

Leave granted.

Payment of monetary compensation by Tribunal in limited circumstances

Part 12A of the Bill also provides for restrictions on Tribunal compensation orders and that where the Tribunal does determine that direct or indirect discrimination has occurred its capacity to award compensation is limited to cases where it finds that the treatment of the offender was done in bad faith and that no other order will effectively redress the offender for the discrimination.

This will ensure that compensation will not be awarded in situations where correctional authorities have acted or omitted to do something in good faith in attempting to accommodate a prisoner's request.

Creation of Victim Trust Funds

Significantly Part 12A provides that an offender does not have property or interest in any compensation that may be awarded by the Tribunal. This is because if compensation is awarded that money will be treated in accordance with the new Part 12B of the Corrective Services Act 2006 being inserted by the Bill.

These changes have been made because it is extremely difficult for victims to become aware that an offender's financial circumstances have changed. Under the common law victims may choose to bring civil action against offenders for their injuries. However, often due to the offender being impecunious the victim chooses not to bring the claim and instead applies for an ex-gratia payment from the State under statutory schemes such as the Criminal Offences Victims Act 1995.

The community is rightly outraged when it hears of offenders receiving significant compensation or damages awarded for events that have occurred in custody or whilst under supervision.

This Bill improves the victim's knowledge of offenders' financial circumstances by providing that money payable by the State will be frozen in a victim trust fund.

Part 12B of the Bill creates "Victim trust funds" which consists of money awarded to offenders for complaints of discrimination and personal injuries. This fund which is held by the Public Trustee effectively quarantines this money from the offender and any creditors of the offender so that victims can be given the opportunity to make a claim against the money held in the trust fund.

While the compensation or damages are frozen under the Bill, an injured offender is able to obtain future medical or legal costs. The balance of the monies will be put into the trust and Queensland Corrective Services will make reasonable efforts to locate and notify eligible victims of the offender that the trust fund has been established.

The chief executive may consult with the Commissioner of the Police Service, the Director of Public Prosecutions and the Department of Justice and Attorney-General's Criminal Injuries Compensation Unit to seek potential claimants.

If eligible victims are located and advised of the victim trust fund, then the extent to which a victim may claim against the fund will be determined by the damages awarded by a court as a result of the injuries caused by the offender. The Bill recognises that in some cases an offence may not be proven beyond a reasonable doubt but a victim will still have suffered injuries as a result of the offender's conduct.

Victims are able to claim against the fund if they have a claim for damages against the offender for conduct that, on the balance of probabilities, constitutes an offence.

The Bill provides if the chief executive is satisfied there are no potential claimants then as soon as reasonably practicable the Public Trustee must be advised.

Payment of debts

Division 4 of Part 12B of the Bill provides for the distribution of the victim trust fund. If there is money left in the victim trust fund after eligible victim claims have been satisfied the State may recover from the fund amounts paid to victims on behalf of the offender under the Criminal Offences Victims Act 1995.

An entity such as the State who has paid an amount under the Criminal Offences Victims Act 1995 and the State Penalty Enforcement Register and the Commonwealth Child Support Agency may receive notice if an amount is left in the victim trust fund after the Public Trustee has paid eligible victims claims.

This will ensure that offenders are not given access to compensation received for a discrimination claim or personal injuries claim until they have satisfied the claims of victims, the Government and child support debts.

The ability for victims to be able to seek redress for offences committed against them by their perpetrator, if they choose to, is an important step in re-balancing the rights of victims. Offenders should not be able to dodge their obligations to their victims.

This Government wants to make it clear to offenders that they will be accountable to their victims and the community in general. This is not an additional punishment for offenders but rather an opportunity for offenders to make reparation to their victims and ensure that their reintegration into the community is not compromised by the demands of trying to pay outstanding debts.

After these debts have been paid the offender will receive the balance of the victim trust fund.

Limitations of Actions

To enable victims to make claims against the victim trust fund the Bill ensures that where victims may have suffered injuries many years ago and proceedings would otherwise be out of time, the Limitations of Actions Act 1974 is amended so that these claims may be brought within 6 months after the award is made to the offender.

The Bill also amends the Limitations of Action Act 1974 to remove prisoners from being considered to be under a "disability" and brings them in line with the community when initiating legal proceedings from prison.

For example, the limitation period under the Limitation of Actions Act 1974 that applies to prisoners to pursue damages for an incident that occurred in custody differs from the community. Whilst actions for personal injury must be brought by members of the community within three years of the date of the incident, prisoners, who are considered under the legislation to have a 'disability' because of their incarceration, have three years after their release from custody (not the date of an incident) to commence proceedings.

Despite significant advantages in technology, communication and visitor access to prisoners, prisoners have an extended period to lodge claims for negligence and the three year time period only commences upon their release.

This means that a prisoner may bring an action many years after an alleged incident took place. This practice can make it difficult for witnesses to recall events.

Transitional provisions

The Bill provides that upon commencement any money awarded for discrimination claims by the Tribunal or personal injuries after commencement will be subject to the victim trust fund provisions and that an offender will not have any property or interest in the right of complaint.

Drug detection in prison

The Bill inserts a new Chapter 6 and part 13A into the Corrective Services Act 2006 and amends the Drugs Misuse Act 1986, Health Act 1937 and Health (Drugs and Poisons) Regulation 1996 to enable prescribed Queensland Corrective Services Dog Squad officers to lawfully possess dangerous drugs for the purpose of training drug detection dogs.

Reducing the availability of drugs in prison is a key priority for this government and one of the best ways to achieve this objective is through the use of drug detection dogs. This amendment will ensure that approved Corrective Services Officers are able to provide drug detection dogs with the highest standard of training. Strict control will be maintained over drugs held by Corrective Services for the purposes of training through the use of registers and secure facilities for storage.

Conclusion

The Bligh Government's Bill heralds the beginning of new phase in the way offender complaints will be dealt with under Anti-Discrimination legislation and compensation awards to prisoners are managed. This Bill achieves an important balance between the rights of victims to receive compensation for their injuries and the ability for offenders to make complaints and claim compensation for treatment by correctional management.

I commend the Bill to the House.

Debate, on motion of Mr Johnson, adjourned.

~~HIGHER EDUCATION (GENERAL PROVISIONS) BILL~~

~~Second Reading~~

~~Resumed from p. 1424, on motion of Mr Welford~~

~~That the bill be now read a second time.~~

~~Mr CRIPPS (Hinchinbrook—NPA) (11.52 am): I rise to make a contribution to the debate on the Higher Education (General Provisions) Bill. The primary objectives of the bill are to uphold the standards of education delivered by higher education institutions operating in Queensland; to uphold the standards of education delivered by higher education institutions approved to be established or recognised, authorised to operate or registered under an act when operating outside Queensland; and to maintain public confidence in the higher education sector in Queensland. Other objectives of the bill are to amend the Education (General Provisions) Act 2006 to clarify the head of power to charge a fee in relation to non-state school students who undertake a component of a program of distance education at a school and to amend the Vocational Education, Training and Employment Act 2000 to implement a number of recommendations arising from a review of the role of group training organisations.~~

~~The national protocols for higher education approval processes were originally approved by the Ministerial Council on Education, Employment, Training and Youth Affairs on 21 March 2000. These national protocols underpin the national quality assurance framework for Australian higher education. They have been designed to ensure consistent criteria and standards for higher education approval processes across Australia. The national protocols provide a common framework for regulating the establishment and recognition of new universities, the operation of overseas higher education institutions in Australia and the accreditation of courses offered by providers of higher education other than universities. In October 2007 the ministerial council approved a new edition of the national protocols. The council also agreed to the development of national guidelines for higher education approval processes, which were also approved by the council in October 2007. Individual states and territories have the responsibility for implementing the national protocols through legislation. The amendments required to implement the new 2007 national protocols are contained in this bill.~~

~~In the past higher education providers other than universities were required to be registered and have their courses accredited by state higher education approval authorities. The new national protocols have separated the registration and course accreditation processes requiring non-university providers to be registered in the jurisdiction in which they operate. This is additional to the requirement for their courses to be accredited.~~

~~The separation of registration and accreditation processes is seen to do the following: facilitate an approved national framework for mutual recognition of course accreditation whereby local jurisdictions accept an accreditation decision by another authority but still scrutinise local delivery arrangements by reference to certain criteria; and make it possible to streamline processes by not revisiting generic registration criteria every time a provider seeks accreditation. Currently, universities are empowered to accredit their own courses while most non-university higher education providers must have their courses accredited through a state course approval process. There was no mechanism under the previous national protocols for any other higher education entities to become self-accrediting.~~