



Submission

**Equal Opportunity Act Exemptions
Review**

April 2008

The Victorian Farmers Federation

The Victorian Farmers Federation is Australia's largest state farmer organisation, and the only recognised, consistent voice on issues affecting rural Victoria.

The VFF represents 21,000 farmer members, representing 15,000 farm enterprises. The VFF consists of an elected Board of Directors, a member representative General Council to set policy and eight commodity groups representing dairy, grains, livestock, horticulture, chicken meat, pigs, flowers and egg industries.

Farmers are elected by their peers to direct each of the commodity groups and are supported by Melbourne-based staff.

Each VFF member is represented locally by one of the 230 VFF branches across the state and through their commodity representatives at local, district, state and national levels. The VFF also represents farmers' views on hundreds of industry and government forums.



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Equal Opportunity Act Exemptions Review

Introduction

The VFF appreciates that the purpose of the Exceptions Review is to identify whether any of the exceptions and exemptions in the Act limit the enjoyment of human rights protected and promoted by the charter. In particular, the Exceptions Review will examine whether the exceptions are compatible with the right to equal and effective protection against discrimination.

With the above purpose in mind the VFF wish to make the following comments concerning the questions for consideration you have proposed in the Exceptions Review.

General questions

- Do the exceptions need to be reformed to improve equality of opportunity and the elimination of discrimination in Victoria?

The VFF does not believe that the exceptions need to be reformed to improve equality of opportunity and the elimination of discrimination in Victorian. To “reform” means the improvement or amendment of what is wrong, corrupt i.e. social reform (the Macquarie Dictionary 3rd edition). The VFF is of the general view that the current exemption and exceptions contained in the current Equal Opportunity Act are not wrong or corrupt. The exemptions and exceptions are in the Act because they are a flexible devise to allow for common sense to prevail in the community. The Equal Opportunity Act needs to be flexible enough to take account of minority attitudes to issues affecting certain sections of the community.

Exceptions and Exemptions

As a principle the VFF believes that there should be a degree of flexibility in relation to the Equal Opportunity Act. The flexibility in this Act is in the form of exemptions and exceptions. If, the exemptions and exceptions were removed then in certain circumstances this could lead to disharmony in the community. Disharmony may occur where there is rigid enforcement of the Equal Opportunity Act. That is why under the current Act there are current exemptions and exceptions. The VFF is not in flavour of a blanket removal of the current exemptions and exceptions. It does not object to new exemptions and exceptions being consideration provided they have a sound foundation to support the exemption or exclusion.

The VFF agrees with the quote from Rattigan K in the case of Purvis v New South Wales [2004] Melbourne University Law Review 17,20 and repeated in the Review

“In properly structured and well drafted legislation, balancing the rights of the complainant with the rights and interests of others would be achieved through appropriate exceptions and defences.”

Exemptions can be justified by reasoning and evidence. Equality sometimes is a difficult principle to achieve and what one person perceives as equality may not be another person's view. Equality is a difficult concept and may not be black or white in many situations and in some cases positive discrimination may be a remedy for certain sections of the community to overcome certain harsh treatment. There must be avenues for rules and laws to change to reflect community values. The VFF is not opposed to a review of the exemptions and exceptions because it is always good to check whether an exemption is outdated by community standards but removing exceptions and exemptions all together we would consider a back ward step.

The VFF submits that the exceptions and exemptions contained in the Act do not limit the enjoyment of human rights protected and promoted by the Charter. The VFF supports the chapter two exceptions to discrimination in employment and employment related areas especially the small business exception. It also generally supports the other exceptions found in chapters three, four, five, six, seven and eight.

The VFF supports VCAT granting an exemption and in certain circumstances by the minister administering the Act.