



New South Wales

# Fair Trading Amendment (Employment Placement Services) Bill 2002

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The objects of this Bill are to repeal the *Employment Agents Act 1996* so as to remove provisions relating to the licensing of private employment agents and to amend the *Fair Trading Act 1987*:

- (a) to include an offence of demanding or receiving a fee, charge or other remuneration from a person seeking employment for the provision of employment placement services to the person, and
- (b) to enable regulations to be made prescribing information standards for employment placement services.

The Bill also makes consequential amendments to the *Fines Act 1996* and the *Industrial Relations Act 1996*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Fair Trading Act 1987* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the consequential amendments to other Acts set out in Schedule 2.

**Clause 5** repeals the *Employment Agents Act 1996*. In particular, this will repeal provisions relating to the licensing of private employment agents and a provision making it an offence to charge a fee in the course of carrying on the business of a private employment agent without being licensed. The *Employment Agents Regulation 2001* made under that Act is also specifically repealed.

## Schedule 1 Amendment of Fair Trading Act 1987

**Schedule 1 [1]** inserts a new Part 5C into the Act comprising the following provisions:

**Proposed section 60P** contains a definition of *employment placement service* for the purposes of the proposed Part. It means a service provided by a person as an agent for the purpose of:

- (a) finding or assisting to find a person to carry out work for a person seeking to have work carried out, or
- (b) finding or assisting to find employment for a person seeking to be employed, whether or not the employment or work is to be undertaken or carried out pursuant to a contract of employment or otherwise. It does not include publishing advertisements.

The proposed Part does not apply to models and modelling agencies, licensees under the *Entertainment Industry Act 1989* or persons exempted by the regulations.

**Proposed section 60Q** makes it an offence to demand or receive any fee, charge or other remuneration from a person seeking employment for the provision of employment placement services to the person. Any remuneration received in contravention of the proposed section may be recovered as a debt by the person who paid it.

**Proposed section 60R** enables regulations to be made prescribing an information standard for employment placement services. The standard may contain requirements to communicate certain information to a person to whom employment placement services are provided, including the manner in which the information is to be communicated. The proposed section creates an offence of failing to comply with the requirements of a prescribed information standard when providing employment placement services.

**Schedule 1 [2]** enables regulations of a savings and transitional nature consequent on the enactment of the proposed Act to be made.

## **Schedule 2 Consequential amendment of other Acts**

**Schedule 2** amends the *Fines Act 1996* and the *Industrial Relations Act 1996* to remove references to the *Employment Agents Act 1996*.



New South Wales

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New South Wales

# Fair Trading Amendment (Employment Placement Services) Bill 2002

No. , 2002

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## A Bill for

An Act to amend the *Fair Trading Act 1987* with respect to employment placement services; to repeal the *Employment Agents Act 1996*; to amend the *Fines Act 1996* and the *Industrial Relations Act 1996* consequentially; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Fair Trading Amendment (Employment Placement Services) Act 2002</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Fair Trading Act 1987 No 68</b>	8
The <i>Fair Trading Act 1987</i> is amended as set out in Schedule 1.	9
<b>4 Consequential amendment of other Acts</b>	10
Each Act specified in Schedule 2 is amended as set out in that Schedule.	11 12
<b>5 Repeal of Employment Agents Act 1996 No 18 and Employment Agents Regulation 2001</b>	13 14
(1) The <i>Employment Agents Act 1996</i> is repealed.	15
(2) The <i>Employment Agents Regulation 2001</i> is repealed.	16

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<b>Schedule 1</b>	<b>Amendment of Fair Trading Act 1987</b>	1
	(Section 3)	2
<b>[1] Part 5C</b>		3
	Insert after Part 5B:	4
	<b>Part 5C Employment placement services</b>	5
<b>60P Interpretation</b>		6
(1)	In this Part, <i>employment placement service</i> means a service provided by a person as an agent for the purpose of:	7
		8
(a)	finding or assisting to find a person to carry out work for a person seeking to have work carried out, or	9
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(b)	finding or assisting to find employment for a person seeking to be employed,	11
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	whether or not the employment or work is to be undertaken or carried out pursuant to a contract of employment.	13
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(2)	However, <i>employment placement service</i> does not include the publication of an advertisement for a person who is seeking to have work carried out or to be employed if that publication is the only service of a kind referred to in subsection (1) (a) or (b) that is provided to the person by the person arranging the publication.	15
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(3)	This Part does not apply to or in respect of:	21
(a)	a model or modelling agency, or	22
(b)	a licensee under the <i>Entertainment Industry Act 1989</i> , or	23
		24
(c)	a person or class of persons exempted (conditionally or unconditionally) from this Part by the regulations.	25
		26

<b>60Q</b>	<b>Certain fees and charges prohibited in connection with employment placement services</b>	1 2
(1)	A person must not demand or receive any fee, charge or other remuneration from a person seeking employment for the provision of employment placement services to the person in relation to the seeking of employment.	3 4 5 6
	Maximum penalty: 50 penalty units.	7
(2)	It is immaterial whether the employment is to be carried out or undertaken pursuant to a contract of employment.	8 9
(3)	If any fee, charge or other remuneration is received in contravention of this section, the amount concerned may be recovered from the person to whom it was paid in a court of competent jurisdiction as a debt due to the person who paid the amount.	10 11 12 13 14
<b>60R</b>	<b>Information standards</b>	15
(1)	The regulations may prescribe an information standard for employment placement services.	16 17
(2)	A prescribed information standard may contain either or both of the following:	18 19
(a)	requirements for information relating to employment placement services to be communicated to a person to whom the services are to be supplied,	20 21 22
(b)	requirements with respect to the type and form of information to be so communicated and the manner of communication.	23 24 25
(3)	A person who provides employment placement services must comply with the requirements of any information standard prescribed in accordance with this section.	26 27 28
<b>[2]</b>	<b>Schedule 5 Savings and transitional provisions</b>	29
	Insert at the end of clause 12 (1):	30
	<i>Fair Trading Amendment (Employment Placement Services) Act 2002</i>	31 32



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<b>Schedule 2</b>	<b>Consequential amendment of other Acts</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Fines Act 1996 No 99</b>	3
	<b>Schedule 1</b> Statutory provisions under which penalty notices issued	4 5
	Omit “Employment Agents Act 1996, section 29”.	6
<b>2.2</b>	<b>Industrial Relations Act 1996 No 17</b>	7
	<b>Schedule 4</b> Savings, transitional and other provisions	8
	Omit “ <i>Employment Agents Act 1996</i> ” from clause 2 (1).	9