



New South Wales

Conversion Practices Prohibition Bill 2023

Explanatory note

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

This Bill is cognate with the *Equality Legislation Amendment (LGBTIQ+) Bill 2023*.

Overview of Bill

The object of this Bill is to—

- (a) prohibit change or suppression practices, and
- (b) establish a civil response scheme, and
- (c) ensure that all people, regardless of sexual orientation, gender identity or gender expression feel welcome and valued in New South Wales and are able to live authentically and with pride.

Outline of provisions

Part 1 Preliminary

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 the date of assent to the proposed Act.

Clause 3 sets out the objects of the proposed Act.

Clause 4 provides that the objects of the proposed Act are to be primarily achieved by eliminating the occurrence of change or suppression practices in New South Wales by prohibiting engaging in change or suppression practices.

Clause 5 provides for the proposed Act to bind the Crown in the right of New South Wales and, so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

Clause 6 provides that contravention of the proposed Act does not create civil or criminal liability beyond what is expressly provided by the proposed Act.

Clause 7 provides that if a person engages in conduct outside, or partly outside New South Wales, the proposed Act has effect in relation to the conduct as if it had been engaged in wholly within New South Wales.

Clause 8 provides for the Dictionary in the proposed Act, Schedule 1 to define certain terms used in the proposed Act.

Clause 9 defines a *change or suppression practice* for the proposed Act.

Part 2 Prohibition on change or suppression practices

Clause 10 provides that a person or organisation that engages in change or suppression practices contravenes the proposed Act.

Clause 11 makes it an offence for a person to intentionally engage in change or suppression practices that negligently cause serious injury to an individual. The maximum penalty for an individual is imprisonment for 10 years or 1,200 penalty units, or both, or, otherwise, 6,000 penalty units. It is not a defence to a charge under clause 11 that the individual consented to the change or suppression practice.

Clause 12 makes it an offence for a person to intentionally engage in change or suppression practices that negligently cause injury to an individual. The maximum penalty for an individual is imprisonment for 5 years or 600 penalty units, or both, or, otherwise, 3,000 penalty units. It is not a defence to a charge under clause 12 that the individual consented to the change or suppression practice.

Clause 13 makes it an offence for a person to take an individual or arrange for an individual to be taken outside of New South Wales to engage the individual in change or suppression practices that negligently cause injury to the individual. The maximum penalty for an individual is imprisonment for 2 years or 240 penalty units, or both, or, otherwise, 1,200 penalty units. It is not a defence to a charge under clause 13 that the individual consented to being taken from New South Wales for the change or suppression practice.

Clause 14 makes it an offence to advertise change or suppression practices, other than for warning of the harm caused by change or suppression practices, with a maximum penalty for an individual of 60 penalty units, or, otherwise, 300 penalty units. **Clause 15** provides that the President of the Anti-Discrimination Board under the *Anti-Discrimination Act 1977* may, by written notice, require a person to produce documents specified in the notice for proceedings under clause 14.

Clause 16 provides that for a proceeding against a body corporate for an offence under clauses 11–14, certain particulars must be attributed to the body corporate and the conduct of an officer of a body corporate is taken to be the actions of the body corporate. It is a defence to a charge under the proposed Act, Part 2, Division 3 for the body corporate to prove the body corporate exercised due diligence to prevent the conduct of the officer.

Part 3 Civil response scheme

Division 1 provides that the Anti-Discrimination Board (the *Board*) and the President of the Board (the *President*) have all the powers necessary to enable the Board and President to perform their functions. The functions of—

- (a) the Board include—
 - (i) developing and offering education about change or suppression practices, and
 - (ii) researching matters the Board considers would advance the objects of the proposed Act, and
- (b) the President include—

- (i) receiving reports from the Board or other persons about change or suppression practices, and
- (ii) determining appropriate responses to reports, and
- (iii) ensuring persons affected by change or suppression practices receive support by directing the persons to appropriate support services, and
- (iv) supporting a person who is, or may be, the victim of an offence under the proposed Act to voluntarily report the offence to the NSW Police Force, and
- (v) prosecuting offences under the proposed Act.

Division 2 provides that a person or organisation may make a report to the President about an alleged change or suppression practice and the President may ask certain persons for further information if the President considers it necessary in determining the President's response to a report.

The proposed division also provides the principles for the President responding to a report and what the President may do in response to a report. If the President is satisfied a person or organisation has engaged in a change or suppression practice, the President must consider the wishes of the person affected by the change or suppression practice and other certain matters that are reasonably available to the President. The President has discretion to offer facilitation of an outcome in relation to matters in a report and if the President certifies a record of agreement of a facilitation, the President must give each party a copy of the signed record of agreement. The President must prepare a record of agreement if requested by a party to the facilitation. The proposed division also provides for the registration of an agreement with the Civil and Administrative Tribunal (NCAT). The President has discretion to decline to respond to, and take no further action in relation to, a report in certain circumstances and must give particular written notice of the decision to the person who made the report.

Division 3 provides that the President may conduct an investigation into any matter relating to the proposed Act if the matter raises an issue that is serious in nature, indicates a possible contravention of the proposed Act, or in other certain circumstances. The President has discretion to require a person to produce a document or information necessary for the conduct of an investigation or attend before the President at a reasonable place and time to answer questions, with a maximum penalty for a failure to comply for an individual of 60 penalty units, or, otherwise, 300 penalty units. The President may give directions prohibiting or limiting the publication of evidence, documentation or information in relation to an investigation if the publication would cause the unreasonable disclosure of personal affairs of an individual, or in other certain circumstances. The President may prohibit the disclosure of the identity of a person who gives evidence, documents or information to the President as part of an investigation. The President may take any action the President considers appropriate after conducting an investigation.

Division 4 provides for remedies in circumstances in which the President, following an investigation, is satisfied a change or suppression practice has occurred, is occurring or will occur. The President may accept a written undertaking from a person in which the person undertakes to take certain actions or refrain from taking certain actions to comply with the proposed Act (an *enforceable undertaking*). The President may give a compliance notice to a person who is wholly or partly responsible for a change or suppression practice. The President may apply to the NCAT for an order requiring a person to comply with an enforceable undertaking or compliance notice. Both individuals and employers may be taken to have engaged in a change or suppression practice for the proposed Act.

Part 4 Miscellaneous

Division 1 provides that certain information about the affairs of a person or other entity obtained by the President, a member of the Board or another person involved with the enforcement of the proposed Act is *protected information* and that protected information must not be recorded or disclosed, except in certain circumstances, with a maximum penalty of 60 penalty units.

Division 2 prohibits the President from exercising the functions of the President under the proposed Act if that would prejudice criminal proceedings, a criminal investigation or an investigation by the Independent Commission Against Corruption (ICAC). The President has discretion to assist or advise a court or tribunal in certain circumstances.

Division 3 provides that for an organisation alleged to have engaged in change or suppression practices, the President may exercise their functions under the proposed Act in relation to the president, secretary or another authorised officer of the organisation.

The President, the Director of Public Prosecutions, a police officer or a person authorised by the President may bring proceedings for an offence under the proposed Act.

The Minister must review the proposed Act within 5 years after the commencement of the proposed Act.

The Governor may make regulations for the proposed Act.

Schedule 1 Dictionary

Schedule 1 defines certain words and expressions used in the proposed Act.

Schedule 2 Amendment of Acts

Schedule 2.1 amends the *Children and Young Persons (Care and Protection) Act 1998* to provide that a child or young person is at risk of significant harm if the child or young person has been, or is at risk of being, affected by change or suppression practices.

Schedule 2.2[1] amends the *Crimes (Domestic and Personal Violence) Act 2007* to provide that a court may make an apprehended domestic violence order if it is satisfied that a person who has had a relationship with another person fears, on reasonable grounds, the other person engaging in or arranging a change or suppression practice directed towards the person.

Schedule 2.2[2] amends the *Crimes (Domestic and Personal Violence) Act 2007* to provide that a court may make an apprehended personal violence order if it is satisfied that a person fears, on reasonable grounds, another person engaging in or arranging a change or suppression practice directed towards the person.

Schedule 2.3[2] amends the *Health Care Complaints Act 1993* to provide that a person may make a complaint under that Act about an alleged engagement in a change or suppression practice.

Schedule 2.3[1] makes a consequential amendment.

Schedule 2.4[1] and [2] amend the *Victims Rights and Support Act 2013* to provide that violent conduct includes a change or suppression practice for that Act.

Schedule 2.4[3] amends the *Victims Rights and Support Act 2013* to provide the circumstances in which a person is not eligible for support under Part 4, Division 3 of that Act if the person engaged in, arranged for or was otherwise involved in a change or suppression practice directed towards certain victims defined in that Act.



New South Wales

Conversion Practices Prohibition Bill 2023

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New South Wales

Conversion Practices Prohibition Bill 2023

No. , 2023

A Bill for

An Act to prohibit change or suppression practices; to establish a civil response scheme; and for related purposes.

The Legislature of New South Wales enacts—	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Conversion Practices Prohibition Act 2023</i> .	4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Objects of Act	7
(1) The objects of this Act are to—	8
(a) denounce and prohibit change or suppression practices, and	9
(b) ensure all people, regardless of sexual orientation and gender identity—	10
(i) feel welcome and valued in New South Wales, and	11
(ii) are able to live authentically and with pride.	12
(2) In enacting this Act, it is the intention of the Parliament to—	13
(a) denounce and give statutory recognition to the serious harm caused by change or suppression practices, and	14
(b) affirm that a person’s sexual orientation or gender identity is not broken and in need of fixing, and	16
(c) affirm that no sexual orientation or gender identity constitutes a deficiency, disease, disorder, illness or shortcoming, and	18
(d) affirm that change or suppression practices are deceptive and harmful both to the person subject to the change or suppression practices and to the community as a whole.	20
4 How objects are to be achieved	23
The objects of this Act are to be primarily achieved by—	24
(a) eliminating, so far as possible, the occurrence of change or suppression practices in New South Wales, and	25
(b) establishing a civil response scheme that will—	27
(i) promote understanding of the prohibition on change or suppression practices under this Act and matters relating generally to change or suppression practices, and	28
(ii) consider and resolve reports of change or suppression practices, and	29
(iii) investigate serious or systemic change or suppression practices, and	30
(c) prohibiting engaging in change or suppression practices, including through creating offences in relation to engaging in change or suppression practices and certain related activities.	33
5 Act to bind Crown	36
This Act binds—	37
(a) the Crown in right of New South Wales, and	38
(b) so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	39

6	Contravention of Act does not create civil or criminal liability	1
	A contravention of this Act does not create civil or criminal liability other than to the extent expressly provided by this Act.	2 3
7	Extra-territorial application of Act	4
(1)	This section applies if—	5
(a)	a person engages in conduct outside, or partly outside, New South Wales, and	6
(b)	there is a real and substantial link between the conduct and New South Wales.	7
(2)	This Act has effect in relation to the conduct as if it had been engaged in wholly within New South Wales.	8 9
(3)	For subsection (1), there is a real and substantial link with New South Wales if—	10
(a)	a significant part of the conduct occurs in New South Wales, or	11
(b)	the conduct occurred wholly outside New South Wales but the effects of the conduct occurred wholly or partly in New South Wales.	12 13
8	Definitions	14
	The Dictionary in Schedule 1 defines words used in this Act.	15
	Note — The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	16 17
9	Meaning of “change or suppression practices”	18
(1)	In this Act, a <i>change or suppression practice</i> means a practice, sustained effort or treatment that—	19 20
(a)	is directed towards an individual because of the individual’s sexual orientation or gender identity, and	21 22
(b)	is done with the intention of changing or suppressing the individual’s sexual orientation or gender identity.	23 24
(2)	However, a change or suppression practice does not include—	25
(a)	an action that a registered health practitioner takes when providing a health service if the health practitioner—	26 27
(i)	considers, in the health practitioner’s reasonable professional judgement, it is appropriate to take the action, and	28 29
(ii)	complies with all legal, professional and ethical standards when taking the action, or	30 31
(b)	genuinely assisting an individual who is undergoing, or considering undergoing, a gender transition to affirm the gender to which the individual is or is considering transitioning, or	32 33 34
(c)	assisting an individual, in a way that meets the needs of the individual, to genuinely express the individual’s gender identity, or	35 36
(d)	providing genuine acceptance, support or understanding of an individual and the individual’s needs, or	37 38
(e)	genuinely facilitating any of the following for an individual, in a way that meets the individual’s needs—	39 40
(i)	the individual’s coping skills, development or identity exploration,	41
(ii)	social support for the individual, or	42
(f)	the expression only of a belief or a religious principle made to an individual that is not intended to change or suppress the individual’s sexual orientation or gender identity.	43 44 45

Part 2	Prohibition on change or suppression practices	1
Division 1	General prohibition	2
10	General prohibition on change or suppression practices	3
	An entity contravenes this Act if the entity engages in a change or suppression practice.	4
	Note — A contravention of this Act by an entity may result in a report being made under Part 3, which sets out the civil response scheme.	5
		6
		7
Division 2	Offences	8
11	Offence of engaging in one or more change or suppression practices that cause serious injury	9
		10
(1)	A person commits an offence if—	11
(a)	the person intentionally engages in a change or suppression practice directed towards an individual, and	12
		13
(b)	the change or suppression practice causes serious injury to the individual, and	14
(c)	the person is negligent as to whether engaging in the change or suppression practice will cause serious injury to the individual.	15
		16
	Maximum penalty—	17
(a)	for an individual—imprisonment for 10 years or 1,200 penalty units, or both, or	18
		19
(b)	otherwise—6,000 penalty units.	20
(2)	A person commits an offence if—	21
(a)	the person intentionally engages in change or suppression practices directed towards an individual, and	22
		23
(b)	the change or suppression practices, considered as a group, cause serious injury to the individual, and	24
		25
(c)	the person is negligent as to whether engaging in the change or suppression practices will cause serious injury to the individual.	26
		27
	Maximum penalty—	28
(a)	for an individual—imprisonment for 10 years or 1,200 penalty units, or both, or	29
		30
(b)	otherwise—6,000 penalty units.	31
(3)	It is not a defence to a charge under subsection (1) or (2) that the individual consented to—	32
		33
(a)	for subsection (1)—the change or suppression practice directed towards the person, or	34
		35
(b)	for subsection (2)—the change or suppression practices directed towards the person.	36
		37
12	Offence of engaging in one or more change or suppression practices that cause injury	38
		39
(1)	A person commits an offence if—	40
(a)	the person intentionally engages in a change or suppression practice directed towards an individual, and	41
		42
(b)	the change or suppression practice causes injury to the individual, and	43

(c)	the person is negligent as to whether engaging in the change or suppression practice will cause injury to the individual.	1
		2
	Maximum penalty—	3
(a)	for an individual—imprisonment for 5 years or 600 penalty units, or both, or	4
(b)	otherwise—3,000 penalty units.	5
(2)	A person commits an offence if—	6
(a)	the person intentionally engages in change or suppression practices directed towards an individual, and	7
		8
(b)	the change or suppression practices, considered as a group, cause injury to the individual, and	9
		10
(c)	the person is negligent as to whether engaging in the change or suppression practices will cause injury to the individual.	11
		12
	Maximum penalty—	13
(a)	for an individual—imprisonment for 5 years or 600 penalty units, or both, or	14
(b)	otherwise—3,000 penalty units.	15
(3)	It is not a defence to a charge under subsection (1) or (2) that the individual consented to—	16
		17
(a)	for subsection (1)—the change or suppression practice directed towards the person, or	18
		19
(b)	for subsection (2)—the change or suppression practices directed towards the person.	20
		21
13	Offence of taking a person from New South Wales for change or suppression practices	22
		23
(1)	A person commits an offence if—	24
(a)	the person takes an individual from New South Wales or arranges for the individual to be taken from New South Wales, and	25
		26
(b)	the person intends that a change or suppression practice directed towards the individual will be engaged in outside New South Wales, whether by the person or another person, and	27
		28
		29
(c)	a change or suppression practice directed towards the individual is engaged in outside New South Wales, and	30
		31
(d)	the change or suppression practice causes injury to the individual, and	32
(e)	the person is negligent as to whether the change or suppression practice will cause injury to the individual.	33
		34
	Maximum penalty—	35
(a)	for an individual—imprisonment for 2 years or 240 penalty units, or both, or	36
(b)	otherwise—1,200 penalty units.	37
(2)	A person commits an offence if—	38
(a)	the person takes an individual from New South Wales or arranges for the individual to be taken from New South Wales, and	39
		40
(b)	the person intends that change or suppression practices directed towards the individual will be engaged in outside New South Wales, whether by the person or another person, and	41
		42
		43
(c)	change or suppression practices directed towards the individual are engaged in outside New South Wales, and	44
		45

(d)	the change or suppression practices, considered as a group, cause injury to the individual, and	1 2
(e)	the person is negligent as to whether the change or suppression practices, considered as a group, will cause injury to the individual.	3 4
	Maximum penalty—	5
(a)	for an individual—imprisonment for 2 years or 240 penalty units, or both, or	6
(b)	otherwise—1,200 penalty units.	7
(3)	It is not a defence to a charge under subsection (1) or (2) that the individual consented to—	8 9
(a)	being taken from New South Wales, or	10
(b)	for subsection (1)—the change or suppression practice directed towards the person, or	11 12
(c)	for subsection (2)—the change or suppression practices directed towards the person.	13 14
14	Offence of advertising change or suppression practices	15
(1)	A person commits an offence if—	16
(a)	the person publishes or displays, or authorises the publication or display of, an advertisement or other notice, and	17 18
(b)	the advertisement or other notice indicates, or could reasonably be understood as indicating, the person or another person intends to engage in one or more change or suppression practices, other than for warning of the harm caused by the change or suppression practices.	19 20 21 22
	Maximum penalty—	23
(a)	for an individual—60 penalty units, or	24
(b)	otherwise—300 penalty units.	25
(2)	It is a defence to a charge under subsection (1) if the accused proves the accused took reasonable precautions, and exercised due diligence, to prevent the publication or display.	26 27 28
Division 3	Miscellaneous	29
15	Production of documents relating to advertising offence	30
(1)	For proceedings under section 14, the President may, by written notice given to a person, require a person to produce documents specified in the notice to the President.	31 32 33
(2)	A person must not, without reasonable excuse, contravene a notice given to the person under subsection (1).	34 35
	Maximum penalty—	36
(a)	for an individual—60 penalty units, or	37
(b)	otherwise—300 penalty units.	38
(3)	For subsection (2), it is a reasonable excuse for failing to comply with the notice that producing the documents might incriminate the person or make the person liable to a penalty.	39 40 41
16	Corporate criminal responsibility for offences	42
(1)	For a proceeding against a body corporate for an offence against Division 2, the following must also be attributed to the body corporate—	43 44

(a)	relevant conduct engaged in by an associate of the body corporate,	1
(b)	knowledge of an associate of the body corporate,	2
(c)	intention—	3
	(i) of the body corporate’s board of directors, or	4
	(ii) of an officer of the body corporate, or	5
	(iii) of another associate of the body corporate if a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to the formation of the intention.	6 7 8
(2)	If an officer of a body corporate engages in conduct that constitutes an offence against Division 2, the body corporate—	9 10
	(a) must be taken to have also engaged in conduct constituting the offence, and	11
	(b) may be proceeded against and found guilty of the offence, whether or not the officer has been proceeded against or found guilty of the offence.	12 13
(3)	In a proceeding against a body corporate for an offence against this division brought under subsection (2), it is a defence to the charge for the body corporate to prove the body corporate exercised due diligence to prevent the conduct engaged in by the officer.	14 15 16 17

Part 3	Civil response scheme	1
Division 1	Functions and powers of Board and President	2
17	Functions of Board	3
	The Board has the following functions under this Act—	4
	(a) developing and providing education about change or suppression practices,	5
	(b) offering education to entities engaged in change or suppression practices and other entities,	6
	(c) another function given to the Board under this Act.	7
18	Functions of President	9
	The President has the following functions under this Act—	10
	(a) receiving reports about change or suppression practices from persons,	11
	(b) asking for further information about reports of change or suppression practices from persons who make reports and entities alleged to be engaging in change or suppression practices,	12
	(c) determining appropriate responses to reports on the basis of information provided and the wishes of persons affected, if the persons affected are involved in making the reports,	13
	(d) establishing processes for facilitating outcomes in relation to matters in certain reports that meet the needs of persons affected by change or suppression practices,	14
	(e) ensuring that persons affected by change or suppression practices receive support by directing the persons to appropriate support services,	15
	(f) supporting persons who are, or may be, victims of criminal offences under this Act to voluntarily report the offences to the NSW Police Force,	16
	(g) prosecuting offences under this Act,	17
	(h) another function given to the President under this Act.	18
19	Powers	27
	The Board and the President have all the powers necessary to enable the Board and President to carry out their functions.	28
20	Educative functions	29
	(1) The Board must—	30
	(a) establish and undertake information and education programs about change or suppression practices, and	31
	(b) promote and advance the objects of this Act and advocate for the objects of this Act.	32
	(2) The Board must undertake programs to disseminate information and educate the public about—	33
	(a) the objects of this Act, and	34
	(b) another matter relevant to this Act.	35
21	Research functions	36
	(1) The Board may undertake research into a matter arising from, or incidental to, the operation of this Act the Board considers would advance the objects of this Act.	37

(2)	The Board may collect and analyse data and other information relevant to the operation and objects of this Act.	1 2
22	Reports on educative and research functions	3
	The Board may, at any time, give a report to the Minister about a matter arising from the exercise of the Board's functions under section 20 or 21.	4 5
23	Receiving reports and facilitating outcomes	6
	The President may—	7
(a)	receive reports under section 24 from—	8
(i)	persons affected by change or suppression practices, or	9
(ii)	entities acting for persons affected by change or suppression practices, or	10 11
(iii)	other entities, and	12
(b)	establish policies and procedures, and give directions, about the way in which reports under section 24 should be dealt with, and	13 14
(c)	for reports made by persons affected by change or suppression practices, or entities acting on their behalf—establish policies and procedures for facilitating outcomes in relation to matters in the reports.	15 16 17
Division 2	Reporting change or suppression practices	18
Subdivision 1	Making a report	19
24	Reporting	20
(1)	A report to the President about an alleged change or suppression practice may be made by an entity, including—	21 22
(a)	an individual affected by the change or suppression practice, and	23
(b)	an entity acting for an individual affected by the change or suppression practice.	24 25
(2)	A report must be in the approved form.	26
25	President may request more information	27
	The President may ask the following for further information the President considers necessary to help in determining the President's response to a report—	28 29
(a)	an individual or other entity that makes a report,	30
(b)	an entity alleged to be engaging in a change or suppression practice.	31
Subdivision 2	Responding to reports	32
26	Principles for responding to reports	33
	The principles for the President responding to reports are—	34
(a)	a response should be provided to the individual or other entity who made the report, and	35 36
(b)	a response should be informed by the needs and wishes of individuals affected by change or suppression practices, and	37 38
(c)	a response should be appropriate to the report, and	39
(d)	a response should be fair to all persons, and	40

(e)	a response should be consistent with the objects of this Act.	1
27	Responding to reports	2
(1)	The President may, after considering a report and further information provided under section 25, decide to do the following—	3 4
(a)	offer targeted education to an entity alleged to have engaged in the change or suppression practice the subject of the report,	5 6
(b)	for a report made by an individual affected by change or suppression practices or an entity for the individual—offer facilitation of an outcome in relation to matters in the report,	7 8 9
(c)	refer the report to another entity under section 29,	10
(d)	decline to respond to, and take no further action in relation to, the report under section 30.	11 12
(2)	Participation in facilitation of an outcome in relation to matters in a report is voluntary.	13 14
28	Matters to be considered if President satisfied entities engaging in change or suppression practices	15 16
(1)	This section applies if, after considering a report and further information provided under section 25, the President is satisfied an entity is engaging in, or has engaged in, a change or suppression practice.	17 18 19
(2)	In responding to the report, the President must, as far as practicable, have regard to the following matters to the extent information about the matters is reasonably available to the President—	20 21 22
(a)	the wishes of the individual or individuals affected by the change or suppression practice,	23 24
(b)	whether the change or suppression practice was a one-off event or a pattern of behaviour,	25 26
(c)	the number of individuals affected by the change or suppression practice,	27
(d)	the nature and extent of the harm caused by the change or suppression practice,	28
(e)	steps taken by the entity to—	29
(i)	stop engaging in the change or suppression practice, or	30
(ii)	address the harm caused by the change or suppression practice.	31
29	Referral of reports	32
(1)	If the President considers a report relates to conduct that would be more adequately dealt with by another entity, the President may refer the report to the other entity.	33 34
(2)	However, the President must not refer a report to another entity without the consent of the person affected by the change or suppression practice to which the report relates, unless required to make the referral by a law dealing with mandatory reporting.	35 36 37 38
(3)	Without limiting subsection (1), the President may refer a report to the following—	39
(a)	the Health Care Complaints Commission,	40
(b)	the Australian Health Practitioner Regulation Agency,	41
(c)	the Ombudsman,	42
(d)	the NSW Police Force,	43
(e)	the Director of Public Prosecutions.	44

30 Discretion to decline to respond	1
(1) The President may decide to decline to respond to, and take no further action in relation to, a report if—	2 3
(a) the report refers to an entity that may no longer be located, or	4
(b) the report relates to conduct about which sufficient information is no longer available, or	5 6
(c) the report relates to conduct that—	7
(i) has been adequately dealt with in another forum, or	8
(ii) would be more appropriately dealt with in another forum, or	9
(d) having regard to all the circumstances, the President considers it is not appropriate to respond to the report.	10 11
(2) The President must, within 30 days after making a decision under subsection (1), give written notice of the decision to the person who made the report.	12 13
(3) The notice must include—	14
(a) a statement that the President has decided to decline to respond to, and will be taking no further action in relation to, the report, and	15 16
(b) the ground under subsection (1) on which the President has decided to decline to respond to the report, and	17 18
(c) the reasons for the President’s decision.	19
31 Withdrawal from facilitation of outcome	20
If the President is facilitating an outcome in relation to matter in a report, a person involved in the facilitation may withdraw at any time by informing the President the person no longer wishes to participate.	21 22 23
32 Agreements resulting from facilitation	24
(1) This section applies if, after the President facilitates an outcome in relation to a matter in a report, the persons engaged in the facilitation (the <i>parties</i>) reach agreement about a matter.	25 26 27
(2) A party may ask a written record of agreement be prepared by the parties or the President.	28 29
(3) A request under subsection (2) must be made within 30 days after the agreement is reached.	30 31
(4) The President must prepare a record of agreement if requested under subsection (2).	32
(5) If a record of agreement is prepared by the President—	33
(a) the record of agreement must be signed by or for each party, and	34
(b) the President must certify the record of agreement.	35
(6) If a record of agreement is prepared by the parties—	36
(a) the record of agreement must be signed by or for each party, and	37
(b) at the request of a party, the President may certify the record of agreement.	38
(7) If the President certifies a record of agreement under subsection (5)(b) or (6)(b), the President must give each party a copy of the signed and certified record of agreement.	39 40

33 Registration of agreements	1
(1) A party to an agreement for which a signed and certified record of agreement has been prepared under section 32 may, after notifying each other party in writing, lodge a copy of the record with the Tribunal for registration.	2 3 4
(2) The Tribunal must—	5
(a) register the record of agreement, and	6
(b) give a certified copy of the registered record of agreement to each party.	7
(3) If the Tribunal, consisting of a presidential member, considers it may not be practicable to enforce, or to supervise compliance with, a record of agreement or part of a record of agreement, the Tribunal—	8 9 10
(a) for a record of agreement—may refuse to register the record of agreement, or	11
(b) for a part of a record of agreement—may refuse to register the part of the record of agreement it considers may not be practicable to enforce, or to supervise compliance with.	12 13 14
(4) On registration, a registered record of agreement or a registered part of a record of agreement—	15 16
(a) is taken to be an order of the Tribunal, and	17
(b) may be enforced as an order of the Tribunal.	18
(5) The refusal of the Tribunal to register a record of agreement or a part of a record of agreement does not affect the validity of the agreement.	19 20
Division 3 Investigations	21
34 When investigation may be conducted	22
The President may conduct an investigation under this section into a matter relating to this Act if the matter—	23 24
(a) raises an issue that is serious in nature or indicates change or suppression practices that are systemic or persisting, and	25 26
(b) indicates a possible contravention of this Act, and	27
(c) relates to a class or group of persons, and	28
(d) would advance the objects of this Act.	29
35 President to conduct investigation as President considers appropriate	30
(1) Subject to this division, the President may conduct an investigation in the way the President considers appropriate.	31 32
(2) In conducting an investigation, the President is bound by the principles of natural justice, unless otherwise expressly provided in this division.	33 34
36 Power to compel production of documents or provision of information	35
(1) This section applies if the President reasonably believes—	36
(a) a person is in possession of a document or information relevant to an investigation, and	37 38
(b) the document or information is necessary for the conduct of the investigation.	39
(2) The President may, by written notice given to the person, require the person to produce the document or supply the information.	40 41

(3)	The notice must specify the person must do either or both of the following within the reasonable period stated in the notice, or on a reasonable date and at a reasonable time specified in the notice—	1
	(a) produce to the President the document specified in the notice,	2
	(b) give the President a document containing information required by the notice.	3
(4)	A document referred to in subsection (3)(b) must be signed by—	4
	(a) for a notice given to an individual—the individual, or	5
	(b) for notice given to a body corporate—an officer of the body corporate.	6
(5)	A person must not, without reasonable excuse, fail to comply with a notice given to the person under this section.	7
	Maximum penalty—	8
	(a) for an individual—60 penalty units, or	9
	(b) otherwise—300 penalty units.	10
(6)	For subsection (5), it is a reasonable excuse for an individual to refuse to answer a question if answering the question might incriminate the individual or make the individual liable to a penalty.	11
(7)	If a document is produced to the President under this section, the President may—	12
	(a) take possession of the document, and	13
	(b) make copies of the document, and	14
	(c) keep possession of the document for as long as is necessary for the investigation to which the document relates.	15
(8)	The President must allow a document kept under this section to be inspected, at all reasonable times, by a person who would be entitled to inspect the document if it were not in the possession of the President.	16
37	Power to compel attendance and require answers	17
(1)	This section applies if the President reasonably believes—	18
	(a) a person has information relevant to an investigation, and	19
	(b) the information is necessary for the conduct of the investigation.	20
(2)	The President may, by written notice given to the person, require the person to attend before the President at a reasonable place and time to answer questions.	21
(3)	A person who is required under this section to attend before the President may have a legal or personal representative present.	22
(4)	The person must not, without reasonable excuse, contravene the notice.	23
	Maximum penalty—	24
	(a) for an individual—60 penalty units, or	25
	(b) otherwise—300 penalty units.	26
(5)	For subsection (4), it is a reasonable excuse for an individual to refuse to answer a question if answering the question might incriminate the individual or make the individual liable to a penalty.	27
38	Disclosure of identity of persons who give documents or information	28
(1)	This section applies to a person who has given, or will give, evidence, documents or information to the President as part of an investigation, whether or not the person is compelled under section 36 or 37.	29

(2)	The President may give directions prohibiting the disclosure of the identity of the person or information that would be reasonably likely to identify the person, if the President considers preservation of the person's anonymity is necessary—	1 2 3
(a)	to protect the security of employment, privacy or another right of the person, or	4 5
(b)	to protect the person from victimisation.	6
(3)	A person must not contravene a direction given under subsection (2). Maximum penalty—60 penalty units or imprisonment for 6 months, or both.	7 8
39	Publication of evidence, documents or information	9
(1)	The President may give directions prohibiting or limiting the publication of—	10
(a)	evidence given before the President or information given to the President as part of an investigation, or	11 12
(b)	the contents of a document given to the President as part of an investigation.	13
(2)	Subsection (1) applies whether or not a person was compelled to give the evidence, document or information under section 36 or 37.	14 15
(3)	In deciding whether or not to give a direction under subsection (1), the President must have regard to the need to prevent the following that are relevant to the circumstances—	16 17 18
(a)	prejudice to relations between the State and the Commonwealth or another State or a Territory,	19 20
(b)	disclosure of deliberations or decisions of Cabinet or a Committee of Cabinet,	21
(c)	prejudice to the proper functioning of the State,	22
(d)	the disclosure, or the ascertaining by a person, of the existence or identity of a confidential source of information in relation to the enforcement of the criminal law,	23 24 25
(e)	the endangering of the life or physical or psychological safety of a person,	26
(f)	prejudice to the proper enforcement of the law or the protection of public safety,	27 28
(g)	the disclosure of information, the disclosure of which is prohibited, absolutely or subject to qualifications, by or under another Act,	29 30
(h)	the unreasonable disclosure of the personal affairs of an individual,	31
(i)	the unreasonable disclosure of confidential commercial information.	32
(4)	A person must not contravene a direction given under subsection (1). Maximum penalty—60 penalty units or imprisonment for 6 months, or both.	33 34
40	Outcomes of investigations	35
(1)	After conducting an investigation, the President may take any action the President considers appropriate.	36 37
(2)	Without limiting subsection (1), the President may do the following—	38
(a)	take no further action,	39
(b)	enter into an agreement with a person about action required to comply with this Act,	40 41
(c)	accept an enforceable undertaking,	42
(d)	give a compliance notice to a person.	43

Division 4	Remedies	1
41	Enforceable undertakings	2
	If, following an investigation, the President believes a change or suppression practice has occurred, is occurring or is likely to occur, the President may accept a written undertaking from a person under which the person undertakes to—	3
		4
		5
	(a) take certain actions to comply with this Act, or	6
	(b) refrain from taking certain actions to comply with this Act.	7
42	Register of enforceable undertakings	8
	The President may keep a register of enforceable undertakings that is available to the public.	9
		10
43	Compliance notices	11
(1)	If, following an investigation, the President believes a change or suppression practice has occurred or is occurring, the President may give a compliance notice to a person who is wholly or partly responsible for the change or suppression practice.	12
		13
		14
(2)	A compliance notice must state the following—	15
	(a) the basis for the President’s belief that a change or suppression practice has occurred or is occurring,	16
		17
	(b) the provisions of this Act, if any, the President believes the person has contravened,	18
		19
	(c) the date by which the person must take, or refrain from taking, specified actions in relation to the change or suppression practice,	20
		21
	(d) the further action the President may take if the person does not take, or refrain from taking, specified actions,	22
		23
	(e) that the person may apply to the Tribunal for review of the issuing of the notice or a term of the notice.	24
		25
(3)	A person who receives a compliance notice may, within 28 days after receiving the notice, apply to the Tribunal for a review of—	26
		27
	(a) the issuing of the compliance notice, or	28
	(b) a term of the compliance notice.	29
44	Failure to comply with enforceable undertakings and compliance notices	30
(1)	This section applies if—	31
	(a) the President has—	32
	(i) accepted an enforceable undertaking from a person, or	33
	(ii) issued a compliance notice to a person, and	34
	(b) the person fails to comply with the enforceable undertaking or compliance notice.	35
		36
(2)	The President may apply to the Tribunal to enforce the enforceable undertaking or compliance notice.	37
		38
(3)	The Tribunal may make an order requiring the person to comply with the enforceable undertaking or compliance notice.	39
		40
45	Vicarious liability	41
(1)	For this part, if an individual engages in a change or suppression practice during the individual’s employment—	42
		43

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|-----|---|--------------------|
| (a) | both the individual and the individual’s employer are taken to have engaged in the change or suppression practice, and | 1
2 |
| (b) | the person to whom the change or suppression practice was directed, or another person, may make a report about— | 3
4 |
| | (i) the individual, or | 5 |
| | (ii) the employer, or | 6 |
| | (iii) the individual and the employer. | 7 |
| (2) | For subsection (1)(a), the employer is not taken to have engaged in the change or suppression practice if the employer proves, on the balance of probability, the employer took reasonable precautions to prevent the individual engaging in change or suppression practices. | 8
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11 |
| (3) | In this section— | 12 |
| | employer includes— | 13 |
| | (a) a person who engages an individual under a contract for services, and | 14 |
| | (b) the principal of an individual who acts as an agent for the principal, and | 15 |
| | (c) a person who engages an individual to perform work as a volunteer. | 16 |
| | employment includes engagement of a person as a contractor or volunteer. | 17 |

Part 4	Miscellaneous	1
Division 1	Confidentiality	2
46	Definitions	3
	In this division—	4
	<i>protected information</i> means information about the affairs of a person or other entity obtained by a relevant person in connection with the administration or enforcement of this Act.	5 6 7
	<i>relevant person</i> means the following—	8
	(a) a member of the Board,	9
	(b) the President,	10
	(c) another person involved in the administration or enforcement of this Act.	11
47	Prohibition on disclosure etc of protected information	12
	A relevant person must not, directly or indirectly, make a record of or disclose or otherwise communicate protected information unless the making of the record or disclosure or other communication is—	13 14 15
	(a) for, or in connection with, the administration of this Act, or	16
	(b) to a person mentioned in section 52 for a prosecution for an offence against this Act, or	17 18
	(c) necessary to prevent a credible and imminent threat of harm to a person or persons, or	19 20
	(d) necessary to comply with a mandatory reporting obligation, or	21
	(e) to a court in accordance with section 48, or	22
	(f) in relation to information already in the public domain, or	23
	(g) in relation to information that does not identify a person, or	24
	(h) with the consent of all entities identified by the information.	25
	Maximum penalty—60 penalty units.	26
48	Disclosure to courts	27
	(1) A relevant person must not be required to—	28
	(a) produce in a court a document containing protected information, or	29
	(b) disclose or otherwise communicate protected information to a court.	30
	(2) Subsection (1) does not prevent a relevant person disclosing or otherwise communicating protected information or producing in a court a document containing protected information if the production or disclosure or other communication—	31 32 33
	(a) is necessary for, or for a prosecution under or arising out of, this part, or	34
	(b) is required by an order of a court for a criminal proceeding, or	35
	(c) is with the consent of the entity to whose affairs the information relates.	36
Division 2	Matters relating to certain proceedings	37
49	President not to prejudice certain proceedings or investigations	38
	(1) The President must not perform the functions or exercise the powers of the President under this Act in a way that would prejudice—	39 40
	(a) criminal proceedings or a criminal investigation, or	41

(b)	an investigation by ICAC.	1
(2)	For ensuring compliance with subsection (1), the President may consult—	2
(a)	the Director of Public Prosecutions, or	3
(b)	the Commissioner of Police, or	4
(c)	ICAC.	5
50	President may assist in certain proceedings	6
	The President may assist or advise a court or tribunal in the following proceedings, with the leave of the court or tribunal—	7 8
(a)	proceedings in which the President considers the orders sought, or likely to be sought, may significantly affect the rights relating to change or suppression practices in relation to persons who are not parties to the proceedings,	9 10 11
(b)	proceedings that, in the President’s opinion, have significant implications for the administration of this Act,	12 13
(c)	proceedings where the President is satisfied it would be in the public interest for the President to assist or advise the court or tribunal.	14 15
Division 3	Miscellaneous	16
51	Reports etc that relate to organisations	17
	If a report under this Act relates to change or suppression practices alleged to have been engaged in by an organisation—	18 19
(a)	the President may request information under section 25 from the president, secretary or another officer of the organisation, and	20 21
(b)	the President may offer targeted education to the president, secretary or another officer of the organisation, and	22 23
(c)	the president, secretary or other officer of the organisation may be a party to the facilitation of an outcome for Part 3, Division 3.	24 25
52	Who may bring proceedings for offences	26
	The following may bring proceedings for an offence against this Act—	27
(a)	the President, but only in relation to an offence against section 14, or	28
(b)	the Director of Public Prosecutions, or	29
(c)	a police officer, or	30
(d)	a person authorised by the President, either generally or in a particular case.	31
53	Annual report	32
	In the Board’s report for a period of 12 months under the <i>Anti-Discrimination Act 1977</i> , section 122, the Board must include a description of the performance of the functions of the Board and the President under this Act in relation to change or suppression practices during the period.	33 34 35 36
54	Review of Act	37
(1)	The Minister must review this Act to determine whether—	38
(a)	the policy objectives of the Act remain valid, and	39
(b)	the terms of the Act remain appropriate for securing the objectives.	40
(2)	The review must be undertaken as soon as possible after the period of 5 years from the commencement of this Act.	41 42

- (3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the period of 5 years. 1
2

55 Regulations 3

The Governor may make regulations about— 4

- (a) a matter that is required or permitted by this Act to be prescribed, or 5
(b) a matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 6
7

Schedule 1 Dictionary

associate, in relation to a body corporate, means the following—

- (a) an employee or agent of the body corporate to the extent the employee or agent is acting within—
 - (i) for an employee—the actual or apparent scope of the employee’s employment, or
 - (ii) for an agent—the agent’s actual or apparent authority, or
- (b) an officer of the body corporate.

Australian Health Practitioner Regulation Agency means the Australian Health Practitioner Regulation Agency established by the *Health Practitioner Regulation National Law (NSW)*, section 23.

Board means the Anti-Discrimination Board under the *Anti-Discrimination Act 1977*.

board of directors, for a body corporate, means the body, by whatever name, exercising the executive authority of the body corporate.

change or suppression practice—see section 9.

compliance notice means a notice issued under section 43(1).

corporate culture, of a body corporate, means an attitude, course of conduct, policy, practice or rule within the body corporate or a part of a body corporate.

enforceable undertaking means an undertaking accepted under section 41.

entity includes—

- (a) a person, and
- (b) an organisation.

exercise, a function, includes perform a duty.

function includes a power, authority and duty.

gender identity—

- (a) means a person’s gender-related identity, that may or may not correspond with the person’s sex at birth, and
- (b) includes—
 - (i) the personal sense of the body, whether this involves medical intervention or not, and
 - (ii) other expressions of gender, including dress, mannerisms, names, personal references and speech.

harm to mental health includes psychological harm, but does not include an emotional reaction, including, for example, anger, distress, fear or grief, unless the emotional reaction results in psychological harm.

injury means either of the following, whether temporary or permanent—

- (a) physical injury,
- (b) harm to mental health.

investigation means an investigation under section 34.

officer, in relation to a body corporate, means an officer, within the meaning of the *Corporations Act 2001* of the Commonwealth, section 9, of the body corporate, to the extent the officer is acting within the actual or apparent scope of the officer’s employment or within the officer’s actual or apparent authority.

organisation means an unincorporated body or association, whether the body or association is—

- (a) based in or outside Australia, or
- (b) part of a larger organisation.

<i>person affected by a change or suppression practice</i> means a person towards whom a change or suppression practice is being, or has been, directed.	1
	2
<i>physical injury</i> includes—	3
(a) disfigurement, and	4
(b) impairment of bodily function, and	5
(c) infection with a disease, and	6
(d) substantial pain, and	7
(e) unconsciousness.	8
<i>President</i> means the President of the Board.	9
<i>produce</i> includes permit access to.	10
<i>protected information</i> , for Part 4, Division 1—see section 46.	11
<i>relevant person</i> , for Part 4, Division 1—see section 46.	12
<i>serious injury</i> means—	13
(a) an injury, including the cumulative effect of more than one injury, that—	14
(i) endangers life, or	15
(ii) is substantial and protracted, or	16
(b) the destruction, other than the termination of a pregnancy under the <i>Abortion Law Reform Act 2019</i> , of the foetus of a pregnant person, whether or not the person suffers another harm.	17
	18
<i>sexual orientation</i> —	19
(a) means a person’s capacity for profound affectional, emotional and sexual attraction to, and intimate and sexual relations with, individuals of the same gender, a different gender or more than one gender, and	20
	21
	22
(b) includes heterosexuality, homosexuality and bisexuality.	23
<i>Tribunal</i> means the Civil and Administrative Tribunal.	24

Schedule 2	Amendment of Acts	1
2.1	Children and Young Persons (Care and Protection) Act 1998 No 157	2
	Section 23 Child or young person at risk of significant harm	3
	Insert after section 23(1)(e)—	4
	(e1) the child or young person has been, or is at risk of being, a person affected by change or suppression practices within the meaning of the <i>Conversion Practices Prohibition Act 2023</i> ,	5 6 7
2.2	Crimes (Domestic and Personal Violence) Act 2007 No 80	8
[1]	Section 16 Court may make apprehended domestic violence order	9
	Insert at the end of section 16(1)(b)(ii)—	10
	, or	11
	(iii) engages in or arranges a change or suppression practice, within the meaning of the <i>Conversion Practices Prohibition Act 2023</i> , directed towards the person,	12 13 14
[2]	Section 19 Court may make apprehended personal violence order	15
	Insert at the end of section 19(1)(b)(ii)—	16
	, or	17
	(iii) engages in or arranges a change or suppression practice, within the meaning of the <i>Conversion Practices Prohibition Act 2023</i> , directed towards the person,	18 19 20
2.3	Health Care Complaints Act 1993 No 105	21
[1]	Section 4 Definitions	22
	Insert in alphabetical order—	23
	<i>change or suppression practice</i> has the same meaning as in the <i>Conversion Practices Prohibition Act 2023</i> .	24 25
[2]	Section 7 What can a complaint be made about?	26
	Insert after section 7(1)(a1)—	27
	(a2) alleged engagement in a change or suppression practice, or	28
2.4	Victims Rights and Support Act 2013 No 37	29
[1]	Section 19 Meaning of “act of violence”	30
	Omit section 19(3). Insert instead—	31
	(3) For this section, violent conduct includes—	32
	(a) sexual assault and domestic violence, and	33
	(b) a change or suppression practice.	34
[2]	Section 19(8)	35
	Insert in alphabetical order—	36
	<i>change or suppression practice</i> has the same meaning as in the <i>Conversion Practices Prohibition Act 2023</i> .	37 38

[3] Section 23 Eligibility for support

Insert after section 23(4)—

- (5) Subsections (2)–(4) do not apply to a person who—
 - (a) engaged in a change or suppression practice, directed towards the victim, that constituted the act of violence, or
 - (b) arranged for, or was otherwise involved in, a change or suppression practice, directed towards the victim, that constituted the act of violence.

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