

Anti-Discrimination Amendment (Equality in Education and Employment) Bill 2005

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Anti-Discrimination Act 1977* to remove the exemptions that allow private educational authorities to discriminate in education and employment or that allow employers who employ no more than 5 persons to discriminate in employment.

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 the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the

Anti-Discrimination Act 1977 set out in Schedule 1.

Schedule 1 Amendments

Removing certain exemptions applying to private educational authorities and certain employers

At present, private educational authorities are exempt from certain provisions of the

Anti-Discrimination Act 1977 that prohibit discrimination.

Schedule 1 [1]–[13] remove those exemptions.

Schedule 1 [1] removes the definition of *private educational authority*.

Schedule 1 [2] has the effect of prohibiting private educational authorities from discriminating in employment against certain applicants and employees on the ground of sex. The amendment also removes the exemption on discrimination in employment on that ground by a person employing 5 or fewer employees.

Schedule 1 [3] has the effect of prohibiting private educational authorities from discriminating in education on the ground of sex.

Schedule 1 [4] has the effect of prohibiting private educational authorities from discriminating in employment against certain applicants and employees on the ground of transgender status. The amendment also removes the exemption on discrimination in employment on that ground by a person employing 5 or fewer employees.

Schedule 1 [5] has the effect of prohibiting private educational authorities from discriminating in education on the ground of transgender status.

Schedule 1 [6] has the effect of prohibiting private educational authorities from discriminating in employment against certain applicants and employees on the ground of marital status. The amendment also removes the exemption on discrimination in employment on that ground by a person employing 5 or fewer employees.

Schedule 1 [7] has the effect of prohibiting private educational authorities from discriminating in education on the ground of marital status.

Schedule 1 [8] has the effect of prohibiting private educational authorities from discriminating in employment against certain applicants and employees on the ground of disability. The amendment also removes the exemption on discrimination in employment on that ground by a person employing 5 or fewer

employees.

Schedule 1 [9] has the effect of prohibiting private educational authorities from discriminating in education on the ground of disability.

Schedule 1 [10] removes the exemption on discrimination in employment, by a person employing 5 or fewer employees, on the ground of a person's responsibilities as a carer.

Schedule 1 [11] has the effect of prohibiting private educational authorities from discriminating in employment against certain applicants and employees on the ground of homosexuality. The amendment also removes the exemption on discrimination in employment on that ground by a person employing 5 or fewer employees.

Schedule 1 [12] has the effect of prohibiting private educational authorities from discriminating in education on the ground of homosexuality.

Schedule 1 [13] prohibits private educational authorities from discriminating in education on the ground of age.

Applying the Act to certain conduct of religious bodies

At present, section 56 of the *Anti-Discrimination Act 1977* provides that nothing in the Act applies to the ordination or appointment of priests, ministers of religion or members of any religious order, the training or education of persons seeking ordination or appointment as priests, ministers of religion or members of a religious order, the appointment of any other person in any capacity by a body established to propagate religion, or any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

Schedule 1 [14] and [15] limit this exemption so that it does not relate to the provision of social, charitable or welfare services to the public, or to the provision of primary, secondary or tertiary education, by religious bodies.