



New South Wales

Anti-Discrimination Amendment (Offender Compensation) Bill 2007

Explanatory note

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

Overview of Bill

The object of this Bill is to provide that damages awarded to a person under the *Anti-Discrimination Act 1977* as compensation for loss or damage suffered by reason of conduct of certain public sector agencies while the person was an offender in custody (or for failure to comply with orders made in connection with any such conduct) are not to be paid to the person and instead are to be paid into the Victims Compensation Fund to be used for the purposes of that Fund. Payment into the Victims Compensation Fund discharges a public sector agency's liability to pay the damages concerned.

The Bill extends to awards of compensation made on or after 29 May 2007, which is the date on which notice of motion for the introduction of this Bill was given in Parliament.

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 to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Anti-Discrimination Act 1977* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts section 111A into the *Anti-Discrimination Act 1977* to make provision as referred to in the Overview.

Schedule 1 [2] enables regulations of a savings and transitional nature to be made as a consequence of the proposed Act.

Schedule 1 [3] provides that the proposed new section extends to pending proceedings and to compensation ordered to be paid on or after 29 May 2007 (unless the compensation has been paid pursuant to the compensation order before the commencement of the new section).

First print



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New South Wales

Anti-Discrimination Amendment (Offender Compensation) Bill 2007

No. , 2007

A Bill for

An Act to amend the *Anti-Discrimination Act 1977* with respect to damages for conduct involving offenders in custody.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Anti-Discrimination Amendment (Offender Compensation) Act 2007</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Anti-Discrimination Act 1977 No 48	7
The <i>Anti-Discrimination Act 1977</i> is amended as set out in Schedule 1.	8
4 Repeal of Act	9
(1) This Act is repealed on the day following the day on which this Act commences.	10 11
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	12 13

Schedule 1 Amendments

		1
	(Section 3)	2
[1]	Section 111A	3
	Insert after section 111:	4
111A	Compensation to offenders in custody—payment to Victims Compensation Fund	5 6
(1)	In this section:	7
	<i>offender damages</i> means damages ordered by the Tribunal under this Division to be paid to a person:	8 9
(a)	by way of compensation for any loss or damage suffered by reason of the conduct of a protected defendant that occurred while the person was an offender in custody, or	10 11 12
(b)	by way of compensation for failure by a protected defendant to comply with an order of the Tribunal made in connection with a complaint about any such conduct.	13 14 15
	<i>offender in custody</i> and <i>protected defendant</i> have the same meanings as in Part 2A (Special provisions for offenders in custody) of the <i>Civil Liability Act 2002</i> .	16 17 18
(2)	A protected defendant who is liable to pay offender damages to a person must not pay the damages to the person and instead must pay the amount of the damages into the Victims Compensation Fund established under the <i>Victims Support and Rehabilitation Act 1996</i> to be expended as money forming part of that Fund.	19 20 21 22 23
(3)	Payment of an amount of damages into the Victims Compensation Fund by a protected defendant pursuant to this section discharges the protected defendant's liability to pay the damages to the person to whom the damages were ordered to be paid.	24 25 26 27 28
(4)	This section extends to any interest that accrues on an amount of damages and a reference in this section to damages includes interest on damages.	29 30 31
(5)	This section does not apply to any costs payable pursuant to an order of the Tribunal.	32 33
(6)	This section does not apply to any offender damages that are excluded by the regulations from the operation of this section.	34 35

[2] Schedule 1 Savings and transitional provisions	1
Insert at the end of clause 1 (1):	2
<i>Anti-Discrimination Amendment (Offender Compensation) Act 2007</i>	3
	4
[3] Schedule 1, Part 6	5
Insert after Part 5 of Schedule 1:	6
Part 6 Anti-Discrimination Amendment (Offender Compensation) Act 2007	7
	8
17 Operation of amendment	9
(1) Section 111A (Compensation to offenders in custody—payment to Victims Compensation Fund) as inserted by the <i>Anti-Discrimination Amendment (Offender Compensation) Act 2007</i> extends to:	10
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(a) an order for the payment of damages made in proceedings before the Tribunal commenced before the commencement of that section but does not extend to such an order made before 29 May 2007, and	14
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(b) an order for the payment of damages made before the commencement of that section (but on or after 29 May 2007) unless the damages concerned have been paid pursuant to the order before the commencement of that section.	18
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Note. 29 May 2007 is the date on which notice of motion was given in Parliament for the introduction of the Bill for the above amending Act.	23
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(2) If an amount that is the subject of an order referred to in subclause (1) (b) is paid into the Victims Compensation Fund on or after 29 May 2007 (but before the commencement of section 111A), being a payment that would be required to be made by section 111A had that section been in force at the time of the payment:	25
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(a) the payment is validated, and	30

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| (b) | section 111A applies in respect of the payment as if that section had been in force when the payment was made. | 1 |
| | | 2 |
| (3) | A regulation made pursuant to section 111A (6) can be expressed to extend to an order for the payment of damages made before the commencement of the regulation. | 3 |
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| | | 5 |