

# CONCURRENCE COPY

## ANTI-DISCRIMINATION (AMENDMENT) BILL, 1984

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Anti-Discrimination Act, 1977 ("the Act"), so as—

- (a) to enable the Equal Opportunity Tribunal ("the Tribunal") to hold inquiries in private (Schedule 1 (1)—proposed section 101B);
  - (b) to enable the Tribunal to give directions prohibiting or restricting—
    - (i) the publication or broadcasting of matters connected with the proceedings of inquiries held by the Tribunal; or
    - (ii) the disclosure of information which tends to identify persons who may be adversely affected by being so identified,(Schedule 1 (3)—proposed section 110A);
  - (c) to extend the operation of Part IXA of the Act for the purpose of promoting equal opportunity in public employment for physically handicapped persons (Schedule 2); and
  - (d) to make other provisions of a minor, ancillary or consequential nature.
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**ANTI-DISCRIMINATION (AMENDMENT) BILL, 1984**

No. , 1984.

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**A BILL FOR**

An Act to amend the Anti-Discrimination Act, 1977, to make further provision in relation to inquiries held by the Equal Opportunity Tribunal and to promote equal opportunity in public employment for physically handicapped persons.

[MR WRAN—2 *May*, 1984.]

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*Anti-Discrimination (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

**1.** This Act may be cited as the "Anti-Discrimination (Amendment) Act, 1984".

**Principal Act.**

**2.** The Anti-Discrimination Act, 1977, is referred to in this Act as the  
10 Principal Act.

**Schedules.**

**3.** This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
INQUIRIES HELD BY THE EQUAL OPPORTUNITY TRIBUNAL.

15 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT FOR PHYSICALLY  
HANDICAPPED PERSONS.

**Amendment of Act No. 48, 1977.**

**4.** The Principal Act is amended in the manner set forth in Schedules  
20 1 and 2.

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*Anti-Discrimination (Amendment).*

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INQUIRIES  
HELD BY THE EQUAL OPPORTUNITY TRIBUNAL.

5 (1) Section 101B—

After section 101A, insert:—

**Holding of inquiry.**

101B. (1) An inquiry shall be held in public unless a direction under subsection (2) is in force in respect of the inquiry.

10 (2) Where, before the holding of an inquiry, or at any stage during the holding of an inquiry, the Tribunal considers it appropriate to do so (whether on its own motion or on the application of a party to the inquiry), the Tribunal may direct that the whole or any part of the inquiry be held in private.

15 (3) A direction under subsection (2) may specify the persons who may be present at the inquiry to which the direction relates.

(4) The Tribunal may from time to time vary or revoke a direction under subsection (2).

20 (5) Where a direction under subsection (2) is in force in respect of an inquiry, a person shall not be present at the inquiry unless the person is entitled to be present by virtue of the direction.

Penalty (subsection (5)): \$1,000.

(2) Section 108 (2)—

25 After “evidence”, insert “, any question relating to the giving, variation or revocation of a direction under section 101B or 110A”.

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*Anti-Discrimination (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INQUIRIES  
HELD BY THE EQUAL OPPORTUNITY TRIBUNAL—*continued.*

(3) Section 110A—

5 After section 110, insert:—

**Publication of proceedings, etc.**

10 110A. (1) Where, before the holding of an inquiry, at any stage during the holding of an inquiry or after the holding of an inquiry, the Tribunal considers it appropriate to do so (whether on its own motion or on the application of a party to the inquiry), the Tribunal may give directions prohibiting or restricting—

(a) the publication or broadcasting of—

(i) any report of the proceedings of the inquiry;

15 (ii) any account of the evidence given to the Tribunal in the course of the inquiry; or

(iii) matter contained in any document which is before the Tribunal in relation to the inquiry; or

20 (b) the disclosure of any information or the doing of any thing which identifies, or may lead to the identification of, any person (whether or not a party to the inquiry or a witness summoned by, or appearing before, the Tribunal) who may, in the opinion of the Tribunal, be adversely affected by being so identified.

25 (2) The Tribunal may from time to time vary or revoke a direction under subsection (1).

(3) A person shall not refuse, neglect or for any reason fail to obey or comply with a direction under subsection (1).

Penalty (subsection (3)): \$1,000.

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*Anti-Discrimination (Amendment).*

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## SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO EQUAL OPPORTUNITY  
IN PUBLIC EMPLOYMENT FOR PHYSICALLY HANDICAPPED PERSONS.

## 5 (1) (a) Section 122c (a)—

Omit “and marital status”, insert instead “, marital status and physical impairment”.

## (b) Section 122c (b)—

10 Omit “and members of racial minorities”, insert instead “, members of racial minorities and physically handicapped persons”.

## (2) Section 122i (3)—

Omit “or members of racial minorities”, insert instead “, members of racial minorities or physically handicapped persons”.

## 15 (3) Section 122JA—

After section 122J, insert:—

**Amendment, etc., of management plans—physically handicapped persons.**

20 122JA. (1) Consequent upon the enactment of the Anti-Discrimination (Amendment) Act, 1984, each authority shall, in accordance with section 122J (subsection (4) excepted), prepare or amend its management plan in order to achieve the objects of this Part, as amended by that Act.

25 (2) The preparation or amendment of a management plan pursuant to subsection (1) shall take place, and the implementation of the plan, as so prepared or amended, shall commence—

(a) in the case of an authority referred to in section 122B (1) (a)—on or before 1st October, 1984;

30 (b) in the case of an authority referred to in section 122B (1) (b) or (c)—on or before 1st July, 1985; and

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*Anti-Discrimination (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO EQUAL OPPORTUNITY  
IN PUBLIC EMPLOYMENT FOR PHYSICALLY HANDICAPPED PERSONS—  
*continued.*

- 5 (c) in the case of an authority the subject of a proclamation  
under section 122B (1) (d)—
- (i) except as provided by subparagraph (ii)—on or  
before 1st October, 1984; or
  - 10 (ii) where the date specified by proclamation in relation  
to that authority in accordance with section 122J  
(4) (c) occurs later than 1st October, 1984—on  
or before the date so specified.
- (4) (a) Section 122L (2) (a) (i)—
- 15 Omit “and marital status”, insert instead “, marital status and  
physical impairment”.
- (b) Section 122L (2) (a) (ii)—
- Omit “and members of racial minorities”, insert instead  
“, members of racial minorities and physically handicapped  
persons”.
- 20 (5) Section 122M—
- After “preparation” wherever occurring, insert “, amendment”.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984



**ANTI-DISCRIMINATION (AMENDMENT) ACT, 1984, No. 17**

**New South Wales**



ANNO TRICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 17, 1984.**

An Act to amend the Anti-Discrimination Act, 1977, to make further provision in relation to inquiries held by the Equal Opportunity Tribunal and to promote equal opportunity in public employment for physically handicapped persons. [Assented to, 6th June, 1984.]

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*Anti-Discrimination (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Anti-Discrimination (Amendment) Act, 1984".

**Principal Act.**

2. The Anti-Discrimination Act, 1977, is referred to in this Act as the Principal Act.

**Schedules.**

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INQUIRIES HELD BY THE EQUAL OPPORTUNITY TRIBUNAL.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT FOR PHYSICALLY HANDICAPPED PERSONS.

**Amendment of Act No. 48, 1977.**

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

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*Anti-Discrimination (Amendment).*

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INQUIRIES  
HELD BY THE EQUAL OPPORTUNITY TRIBUNAL.

(1) Section 101B—

After section 101A, insert:—

**Holding of inquiry.**

101B. (1) An inquiry shall be held in public unless a direction under subsection (2) is in force in respect of the inquiry.

(2) Where, before the holding of an inquiry, or at any stage during the holding of an inquiry, the Tribunal considers it appropriate to do so (whether on its own motion or on the application of a party to the inquiry), the Tribunal may direct that the whole or any part of the inquiry be held in private.

(3) A direction under subsection (2) may specify the persons who may be present at the inquiry to which the direction relates.

(4) The Tribunal may from time to time vary or revoke a direction under subsection (2).

(5) Where a direction under subsection (2) is in force in respect of an inquiry, a person shall not be present at the inquiry unless the person is entitled to be present by virtue of the direction.

Penalty (subsection (5)): \$1,000.

(2) Section 108 (2)—

After "evidence", insert " , any question relating to the giving, variation or revocation of a direction under section 101B or 110A".

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*Anti-Discrimination (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INQUIRIES  
HELD BY THE EQUAL OPPORTUNITY TRIBUNAL—*continued.*

## (3) Section 110A—

After section 110, insert:—

**Publication of proceedings, etc.**

110A. (1) Where, before the holding of an inquiry, at any stage during the holding of an inquiry or after the holding of an inquiry, the Tribunal considers it appropriate to do so (whether on its own motion or on the application of a party to the inquiry), the Tribunal may give directions prohibiting or restricting—

- (a) the publication or broadcasting of—
  - (i) any report of the proceedings of the inquiry;
  - (ii) any account of the evidence given to the Tribunal in the course of the inquiry; or
  - (iii) matter contained in any document which is before the Tribunal in relation to the inquiry; or
- (b) the disclosure of any information or the doing of any thing which identifies, or may lead to the identification of, any person (whether or not a party to the inquiry or a witness summoned by, or appearing before, the Tribunal) who may, in the opinion of the Tribunal, be adversely affected by being so identified.

(2) The Tribunal may from time to time vary or revoke a direction under subsection (1).

(3) A person shall not refuse, neglect or for any reason fail to obey or comply with a direction under subsection (1).

Penalty (subsection (3)): \$1,000.

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*Anti-Discrimination (Amendment).*

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## SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO EQUAL OPPORTUNITY  
IN PUBLIC EMPLOYMENT FOR PHYSICALLY HANDICAPPED PERSONS.

## (1) (a) Section 122c (a)—

Omit “and marital status”, insert instead “, marital status and physical impairment”.

## (b) Section 122c (b)—

Omit “and members of racial minorities”, insert instead “, members of racial minorities and physically handicapped persons”.

## (2) Section 122i (3)—

Omit “or members of racial minorities”, insert instead “, members of racial minorities or physically handicapped persons”.

## (3) Section 122JA—

After section 122J, insert:—

**Amendment, etc., of management plans—physically handicapped persons.**

122JA. (1) Consequent upon the enactment of the Anti-Discrimination (Amendment) Act, 1984, each authority shall, in accordance with section 122J (subsection (4) excepted), prepare or amend its management plan in order to achieve the objects of this Part, as amended by that Act.

(2) The preparation or amendment of a management plan pursuant to subsection (1) shall take place, and the implementation of the plan, as so prepared or amended, shall commence—

- (a) in the case of an authority referred to in section 122B (1) (a)—on or before 1st October, 1984;
- (b) in the case of an authority referred to in section 122B (1) (b) or (c)—on or before 1st July, 1985; and

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*Anti-Discrimination (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO EQUAL OPPORTUNITY  
IN PUBLIC EMPLOYMENT FOR PHYSICALLY HANDICAPPED PERSONS—  
*continued.*

- (c) in the case of an authority the subject of a proclamation under section 122B (1) (d)—
- (i) except as provided by subparagraph (ii)—on or before 1st October, 1984; or
  - (ii) where the date specified by proclamation in relation to that authority in accordance with section 122J (4) (c) occurs later than 1st October, 1984—on or before the date so specified.
- (4) (a) Section 122L (2) (a) (i)—
- Omit “and marital status”, insert instead “, marital status and physical impairment”.
- (b) Section 122L (2) (a) (ii)—
- Omit “and members of racial minorities”, insert instead “, members of racial minorities and physically handicapped persons”.
- (5) Section 122M—
- After “preparation” wherever occurring, insert “, amendment”.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 6th June, 1984.*



