



New South Wales

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.



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No. , 2005

A Bill for

An Act to amend the *Anti-Discrimination Act 1977* to prohibit private educational authorities from discriminating in education and in employment and to prohibit certain employers from discriminating in employment; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Anti-Discrimination Amendment (Equality in Education and Employment) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on the date of assent.	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

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 4 Definitions	3
	Omit the definition of <i>private educational authority</i> from section 4 (1).	4
[2]	Section 25 Discrimination against applicants and employees	5
	Omit section 25 (3) (b) and (c) and (4).	6
[3]	Section 31A Education	7
	Omit section 31A (3) (a).	8
[4]	Section 38C Discrimination against applicants and employees	9
	Omit section 38C (3) (b) and (c) and (4).	10
[5]	Section 38K Education	11
	Omit section 38K (3).	12
[6]	Section 40 Discrimination against applicants and employees	13
	Omit section 40 (3) (b) and (c) and (4).	14
[7]	Section 46A Education	15
	Omit section 46A (3).	16
[8]	Section 49D Discrimination against applicants and employees	17
	Omit section 49D (3) (b) and (c) and (5).	18
[9]	Section 49L Education	19
	Omit section 49L (3) (a).	20
[10]	Section 49V Discrimination against applicants and employees	21
	Omit section 49V (3) (b) and (5).	22
[11]	Section 49ZH Discrimination against applicants and employees	23
	Omit section 49ZH (3) (b) and (c) and (4).	24
[12]	Section 49ZO Education	25
	Omit section 49ZO (3).	26

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Schedule 1 Amendments

[13] Section 49ZYL Education	1
Omit section 49ZYL (3) (b).	2
[14] Section 56 Religious bodies	3
Omit “Nothing”.	4
Insert instead “Except as provided by this section, nothing”.	5
[15] Section 56 (2)	6
Insert at the end of section 56:	7
(2) This section does not operate so as to permit unlawful discrimination:	8
(a) in the provision of services (such as social, charitable or welfare services or similar services) to the public, or	9
(b) in the provision of primary, secondary or tertiary education.	10
	11
	12
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