

[Act 2002 No 86]



New South Wales

# Fair Trading Amendment (Employment Placement Services) Bill 2002

## Explanatory note

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

### Overview of Bill

The objects of this Bill are to repeal the *Employment Agents Act 1996* so as to remove provisions relating to the licensing of private employment agents and to amend the *Fair Trading Act 1987*:

- (a) to include an offence of demanding or receiving a fee, charge or other remuneration from a person seeking employment for the provision of employment placement services to the person, and
- (b) to enable regulations to be made prescribing information standards for employment placement services.

The Bill also makes consequential amendments to the *Fines Act 1996* and the *Industrial Relations Act 1996*.

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## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Fair Trading Act 1987* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the consequential amendments to other Acts set out in Schedule 2.

**Clause 5** repeals the *Employment Agents Act 1996*. In particular, this will repeal provisions relating to the licensing of private employment agents and a provision making it an offence to charge a fee in the course of carrying on the business of a private employment agent without being licensed. The *Employment Agents Regulation 2001* made under that Act is also specifically repealed.

## Schedule 1 Amendment of Fair Trading Act 1987

**Schedule 1 [1]** inserts a new Part 5C into the Act comprising the following provisions:

**Proposed section 60P** contains a definition of *employment placement service* for the purposes of the proposed Part. It means a service provided by a person as an agent for the purpose of:

- (a) finding or assisting to find a person to carry out work for a person seeking to have work carried out, or
- (b) finding or assisting to find employment for a person seeking to be employed, whether or not the employment or work is to be undertaken or carried out pursuant to a contract of employment or otherwise. It does not include publishing advertisements.

The proposed Part does not apply to models and modelling agencies, licensees under the *Entertainment Industry Act 1989* or persons exempted by the regulations.

**Proposed section 60Q** makes it an offence to demand or receive any fee, charge or other remuneration from a person seeking employment for the provision of employment placement services to the person. Any remuneration received in contravention of the proposed section may be recovered as a debt by the person who paid it.

**Proposed section 60R** enables regulations to be made prescribing an information standard for employment placement services. The standard may contain requirements to communicate certain information to a person to whom employment placement services are provided, including the manner in which the information is to be communicated. The proposed section creates an offence of failing to comply with the requirements of a prescribed information standard when providing employment placement services.

**Schedule 1 [2]** enables regulations of a savings and transitional nature consequent on the enactment of the proposed Act to be made.

## **Schedule 2 Consequential amendment of other Acts**

**Schedule 2** amends the *Fines Act 1996* and the *Industrial Relations Act 1996* to remove references to the *Employment Agents Act 1996*.