

Passed by both Houses



New South Wales

# Anti-Discrimination Amendment (Offender Compensation) Bill 2007

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2007*



New South Wales

## **Anti-Discrimination Amendment (Offender Compensation) Bill 2007**

Act No , 2007

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

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Anti-Discrimination Amendment (Offender Compensation) Act 2007*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of Anti-Discrimination Act 1977 No 48**

The *Anti-Discrimination Act 1977* is amended as set out in Schedule 1.

**4 Repeal of Act**

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 111A

Insert after section 111:

#### 111A Compensation to offenders in custody—payment to Victims Compensation Fund

- (1) In this section:  
*offender damages* means damages ordered by the Tribunal under this Division to be paid to a person:
  - (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
  - (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.*offender in custody* and *protected defendant* have the same meanings as in Part 2A (Special provisions for offenders in custody) of the *Civil Liability Act 2002*.
- (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 *Victims Support and Rehabilitation Act 1996* to be expended as money forming part of that Fund.
- (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.
- (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.
- (5) This section does not apply to any costs payable pursuant to an order of the Tribunal.
- (6) This section does not apply to any offender damages that are excluded by the regulations from the operation of this section.

**[2] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Anti-Discrimination Amendment (Offender Compensation) Act 2007*

**[3] Schedule 1, Part 6**

Insert after Part 5 of Schedule 1:

**Part 6 Anti-Discrimination Amendment (Offender Compensation) Act 2007**

**17 Operation of amendment**

- (1) Section 111A (Compensation to offenders in custody—payment to Victims Compensation Fund) as inserted by the *Anti-Discrimination Amendment (Offender Compensation) Act 2007* extends to:
  - (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
  - (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.

**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.
- (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:
  - (a) the payment is validated, and

- (b) section 111A applies in respect of the payment as if that section had been in force when the payment was made.
- (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.