

Conversion Practices Ban Act 2024 No 19

[2024-19]



New South Wales

Status Information

Currency of version

Current version for 5 April 2025 to date (accessed 7 December 2025 at 23:40)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 5 April 2025

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Conversion Practices Ban Act 2024 No 19



New South Wales

An Act to ban practices directed to changing or suppressing the sexual orientation or gender identity of individuals, including by creating offences and a civil complaints scheme in relation to the practices; and for related purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Conversion Practices Ban Act 2024*.

2 Commencement

This Act commences on the day that is 12 months after the date of assent to this Act.

Part 2 Interpretation

3 Meaning of “conversion practices”

- (1) In this Act, a **conversion practice** means a practice, treatment or sustained effort that is—
 - (a) directed to an individual on the basis of the individual’s sexual orientation or gender identity, and
 - (b) directed to changing or suppressing the individual’s sexual orientation or gender identity.
- (2) For subsection (1), it is irrelevant whether a practice, treatment or sustained effort directed to an individual on the basis of the individual’s sexual orientation or gender identity is based on an incorrect assumption or belief about the individual’s sexual orientation or gender identity.
- (3) A conversion practice does not include—
 - (a) a health service or treatment provided by a registered health practitioner that—
 - (i) the registered health practitioner has assessed as clinically appropriate in the registered health practitioner’s reasonable professional judgement, and

(ii) complies with all relevant legal, professional and ethical requirements, or

Examples of health services or treatments that do not constitute a conversion practice—

any of the following health services or treatments assessed by a registered health practitioner as clinically appropriate—

- genuinely assisting an individual who is exploring the individual's sexual orientation or gender identity or considering or undergoing a gender transition
- genuinely assisting an individual who is receiving care and treatment related to the individual's gender identity
- genuinely advising an individual about the potential impacts of gender affirming medical treatment

(b) genuinely facilitating an individual's coping skills, development or identity exploration to meet the individual's needs, including by providing acceptance, support or understanding to the individual, or

(c) the following expressions if the expression is not part of a practice, treatment or sustained effort, directed to changing or suppressing an individual's sexual orientation or gender identity—

(i) an expression, including in prayer, of a belief or principle, including a religious belief or principle,

(ii) an expression that a belief or principle ought to be followed or applied.

(4) To avoid doubt, the following are examples of what does not constitute a conversion practice under this section—

(a) stating what relevant religious teachings are or what a religion says about a specific topic,

(b) general requirements in relation to religious orders or membership or leadership of a religious community,

(c) general rules in educational institutions,

(d) parents discussing matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

4 Definitions

The dictionary in Schedule 2 defines words used in this Act.

Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

Part 3 Offences in relation to conversion practices

5 Offence of engaging in conversion practices that cause mental or physical harm

- (1) A person commits an offence if the person provides or delivers a conversion practice to an individual—
 - (a) with the intention of changing or suppressing the individual's sexual orientation or gender identity, and
 - (b) that causes mental or physical harm to the individual that—
 - (i) endangers the individual's life, or
 - (ii) is substantial.

Maximum penalty—imprisonment for 5 years.

- (2) For subsection (1)(b), the mental or physical harm—
 - (a) may be caused by any combination of conversion practices, and
 - (b) must be assessed by considering the totality of the conversion practices.
- (3) Subsection (1) applies whether the conversion practice is provided or delivered—
 - (a) in New South Wales, or
 - (b) partly in New South Wales and partly outside New South Wales.
- (4) To avoid doubt, subsection (1) applies whether or not any of the following consents to the conversion practice being provided or delivered—
 - (a) the individual,
 - (b) if the individual lacks legal capacity—a parent, guardian or other person who has decision-making authority for the individual.

- (5) In this section—

person does not include an individual under the age of 18 years.

6 Offence of taking individuals from New South Wales, or engaging persons outside New South Wales, for conversion practices

- (1) A person commits an offence if the person—
 - (a) takes an individual from New South Wales, or arranges for the individual to be taken from New South Wales, with the intention that a conversion practice be delivered or provided to the individual outside New South Wales, or
 - (b) engages a person outside New South Wales to provide or deliver a conversion

practice to an individual in New South Wales.

Maximum penalty—imprisonment for 3 years or 100 penalty units, or both.

(2) To avoid doubt, subsection (1) applies whether or not any of the following consents to the individual being taken from New South Wales or arranges for the individual to be taken from New South Wales, or consents to the conversion practice being provided or delivered—

(a) the individual,

(b) if the individual lacks legal capacity—a parent, guardian or other person who has decision-making authority for the individual.

(3) In this section—

person does not include an individual under the age of 18 years.

Part 4 Civil complaints scheme

Division 1 Preliminary

7 Definitions

In this part—

agent includes an Australian legal practitioner.

complainant means an individual by whom, or on whose behalf, a complaint is made.

complaint—

(a) means a complaint made under section 9, and

(b) includes a matter referred to the Tribunal as a complaint under section 27(2).

representative body means a body, whether incorporated or unincorporated, that—

(a) represents or purports to represent a group of individuals within New South Wales, whether or not the body is authorised by the individuals to represent the group, and

(b) has as its primary object the promotion of the interests or welfare of the group.

representative complaint means a complaint—

(a) made by an individual or other entity, which may comprise or include a representative body, on the individual's or entity's own behalf as well as on behalf of another individual, and

(b) treated by the Tribunal as a representative complaint.

respondent means an entity about whose conduct a complaint has been made.

Division 2 General prohibition

8 General prohibition on conversion practices

An entity contravenes this Act if the entity provides or delivers a conversion practice.

Division 3 Complaints

Subdivision 1 Lodgement of complaints

9 Individuals who may make a complaint

(1) A complaint alleging that an entity has contravened this Act may be made by the following—

(a) an individual—

(i) on the individual's own behalf, or

(ii) on the individual's own behalf as well as on behalf of another individual,

(b) a parent or guardian of an individual who lacks the legal capacity to lodge a complaint, including because of age or disability,

(c) a representative body on behalf of a named individual,

Note—

See section 10 for the requirements for a representative body to make a complaint on behalf of an individual.

(d) an agent of an individual referred to in paragraphs (a)–(c).

Note—

Under the [Interpretation Act 1987](#), section 8(b), a reference to a word in the singular form includes a reference to the word in the plural form. Accordingly, a complaint may be made about a single entity or more than 1 entity and may be made by, or on behalf of, 1 individual or more than 1 individual.

(2) Nothing in this division prevents an individual from making a complaint even though the conduct in relation to which the complaint is made is also conduct in relation to which a representative complaint has been made.

(3) In this section—

guardian has the same meaning as in the [Guardianship Act 1987](#).

10 Complaints made on behalf of others under section 9(1)(a) or (b)

(1) If a complaint is made on behalf of another individual (the **other complainant**) under section 9(1)(a) or (b)—

- (a) the individual who makes the complaint is, for this division, taken to have the same rights, obligations and interests in relation to the investigation, conciliation or referral of the complaint as the other complainant, and
 - (b) the complaint is, for this part, taken to have been made by the other complainant on the complainant's own behalf.
- (2) For a complaint made wholly or partly on behalf of another individual, other than a complaint made on behalf of an individual who lacks legal capacity, the President may require—
 - (a) the individual on whose behalf the complaint is made to show that the complaint has been made with the individual's consent, or
 - (b) the individual making the complaint to prove the individual has authority to act at all times in the complaint-handling process.
- (3) For a complaint made wholly or partly on behalf of another individual, including a complaint made on behalf of an individual who lacks legal capacity, if at any time the President is not satisfied the individual who made the complaint is acting in the best interests of the individual or retains the confidence of the individual on whose behalf the complaint was made, the President may—
 - (a) appoint another individual to act in that behalf, or
 - (b) decline the complaint.
- (4) The regulations may provide for matters that may be taken into consideration by the President in making a decision under subsection (3).
- (5) If the President declines a complaint under subsection (3)(b), the President must advise the complainant, by written notice—
 - (a) that the complaint has been declined, and
 - (b) of the complainant's rights under section 27.

11 Complaints by representative bodies

- (1) Before a complaint may be made by a representative body as referred to in section 9(1)(c), the representative body must satisfy the President that—
 - (a) each individual on whose behalf the complaint is made consents to the complaint being made by the body on the individual's behalf, and
 - (b) the body has a sufficient interest in the complaint, that the conduct that constitutes the alleged contravention is a matter of genuine concern to the body because of the way conduct of that nature adversely affects, or has the potential to adversely affect—

(i) the interests of the body, or

(ii) the interests or welfare of the group of individuals the body represents or purports to represent.

(2) The President may require a representative body that has made a complaint to nominate an individual to appear for the representative body in conciliation proceedings about the complaint.

12 Assistance by President in making complaints

The President may assist an individual to make a complaint.

13 Withdrawal of consent for complaint

(1) If a complaint has been made on an individual's behalf with the individual's consent, the individual may withdraw the consent by written notice to—

(a) the President, at any time before the complaint is—

(i) declined, terminated or otherwise resolved by the President, or

(ii) referred to the Tribunal, or

(b) the Tribunal, at any time before the complaint is dismissed, or found to be substantiated, by the Tribunal.

(2) If consent is withdrawn, the President or the Tribunal—

(a) must make arrangements for the complaint, or the part of the complaint relating to the individual, to be terminated, and

(b) if only part of the complaint is being terminated—may make other arrangements the President or Tribunal thinks appropriate for the further management of the complaint.

Subdivision 2 Making of complaints

14 Making of complaints

(1) A complaint must be—

(a) in writing, and

(b) lodged with the President.

(2) A complaint may be lodged with the President—

(a) by delivery by post, or

(b) by email to an email address specified on the Board's website, or

- (c) in another way prescribed by the regulations.

15 Acceptance, declining or referral of complaints

- (1) The President must do one or more of the following in relation to a complaint—
 - (a) accept the complaint, in whole or in part,
 - (b) decline the complaint, in whole or in part,
 - (c) refer the complaint, in whole or in part, to a prescribed entity if—
 - (i) the President considers the conduct that is the subject of the complaint would be more appropriately dealt with by the prescribed entity and the complainant consents to the referral, or
 - (ii) the complaint is required, under another Act or law, to be referred to the prescribed entity.
- (2) The President may decline a complaint if—
 - (a) no part of the conduct complained of could amount to a contravention of this Act, or
 - (b) the period of time that has passed since the whole or part of the conduct complained of occurred makes it impracticable to investigate the complaint, or
 - (c) the President is not satisfied the complaint was made by or on behalf of the complainant named in the complaint.
- (3) The President must give notice of a decision to accept, decline or refer a complaint to—
 - (a) the individual who made the complaint, and
 - (b) if the respondent has been given notice of the complaint—the respondent.
- (4) Notice under subsection (3) must be given within 28 days after the decision is made.
- (5) A decision under this section to decline a complaint in whole or in part is not reviewable by the Tribunal.
- (6) In this section—

prescribed entity means the following—

 - (a) the Commissioner of Police,
 - (b) the Health Care Complaints Commission,
 - (c) the Australian Health Practitioner Regulation Agency under the [Health Practitioner](#)

Regulation National Law (NSW),

- (d) the Health Professional Councils Authority,
- (e) a Council established under the *Health Practitioner Regulation National Law (NSW)*, section 41B,
- (f) an entity of another State or Territory having functions that correspond to the functions of an entity referred to in paragraphs (a)–(e),
- (g) another entity prescribed by the regulations.

Subdivision 3 Investigation and conciliation of complaints

16 President to investigate complaints

- (1) The President must investigate each complaint accepted under section 15.
- (2) The President may conduct a joint investigation into more than 1 complaint.
- (3) The President must give notice to the parties if a joint investigation is undertaken.

17 Supplying information and documents

- (1) The President may, by written notice given to a complainant or an entity against whom a complaint is made, require the complainant or entity to provide the following materials (**relevant material**)—
 - (a) information, orally or in writing,
 - (b) documents.
- (2) The notice must specify the date, not less than 28 days after the date of the notice, by which the relevant material must be provided.
- (3) A complainant or entity of whom a requirement is made under subsection (1) must—
 - (a) provide to the President any of the relevant material that is in the complainant's or entity's possession, custody or control within the period specified in the notice, unless the complainant or entity has a reasonable excuse for not doing so, and
 - (b) if the complainant or entity has a reasonable excuse for not providing the relevant material, or any part of the relevant material—give notice to the President of the excuse and the relevant material to which the excuse relates within the period specified in the notice.

Maximum penalty—

- (a) for an individual—10 penalty units, or

(b) otherwise—50 penalty units.

(4) The President may, by written notice given to an entity other than an entity referred to in subsection (1), require the entity to supply the relevant material within—

(a) 28 days after the date of the notice, or

(b) another period specified in the notice.

(5) An entity that receives a notice under subsection (4) must—

(a) provide to the President any of the relevant material specified in the notice that is in the entity's possession, custody or control within the period specified in the notice, unless the entity has a reasonable excuse, and

(b) if the entity has a reasonable excuse for not providing the relevant material, or a part of the relevant material—give notice to the President of the excuse and the relevant material to which the excuse relates within the period specified in the notice.

Maximum penalty—

(a) for an individual—10 penalty units, or

(b) otherwise—50 penalty units.

(6) If relevant material is not provided or supplied as required by a notice under this section, the President may, with the complainant's consent, refer the complaint to the Tribunal.

18 Progress reports

The President must, as frequently as is reasonably convenient and at periods not exceeding 90 days, give notice to the parties to the complaint of the steps taken for the purpose of the investigation.

19 Resolution of complaint by conciliation

(1) If, in the President's opinion, a complaint, other than a complaint the President has declined under section 22, may be resolved by conciliation, the President may, at any stage after accepting the complaint, try to resolve the complaint by conciliation.

(2) The President may, by written notice to the complainant or the respondent, require the complainant or respondent to appear before the President to try to resolve the complaint by conciliation.

(3) A notice under subsection (2) must not require the complainant to appear before the President with the respondent but may—

(a) require the complainant or respondent to appear separately, or

(b) invite the complainant to appear together with the respondent.

(4) An entity must comply with the terms of a notice under subsection (2).

Maximum penalty—

(a) for an individual—10 penalty units, or

(b) otherwise—50 penalty units.

(5) Evidence of anything said or done during conciliation proceedings under this section is not admissible in subsequent proceedings relating to the complaint.

(6) A written record must be prepared by the parties, and signed by or on behalf of each of the parties, of any agreement reached, following conciliation, about the subject matter of the complaint if a party requests the making of a record within 28 days after the agreement is reached.

(7) If a party to a recorded agreement considers that another party has not complied with the terms of the agreement, the party may, not later than 6 months after the date of the agreement, apply to the Tribunal to have the agreement registered.

Note—

See also the [Civil and Administrative Tribunal Act 2013](#), section 41 which provides that the Tribunal may, of its own motion or on application by a person, extend the period of time for the doing of anything under any legislation in respect of which the Tribunal has jurisdiction.

(8) The party making the application must serve a copy of the application and the agreement on each other party.

(9) If the member of the Tribunal who hears the application is satisfied a party to the agreement has not complied with the terms of the agreement, the member must register any provisions of the agreement that, in the exercise of the Tribunal's jurisdiction, could have been the subject of an order in proceedings relating to a complaint.

(10) The provisions of an agreement that are registered in accordance with this section are taken to be an order of the Tribunal and may be enforced accordingly.

20 No right to representation

A complainant or respondent in conciliation proceedings before the President must not be represented by another entity, except by leave of the President.

21 Amendment of complaint

(1) This section applies if, at any time after a complaint is made and before the complaint is declined, terminated or otherwise resolved by the President, or referred to the Tribunal—

- (a) the entity making the complaint seeks to amend the complaint, or
 - (b) the President becomes aware of information that could conveniently be dealt with as part of the complaint.
- (2) The entity making the complaint must be offered the opportunity to amend the complaint.
- (3) An amendment may be made in writing but, if further written material is already in the possession of the President or the Board, the President may treat the written material as if it formed part of the complaint.
- (4) If a complaint is amended at any time, the President must—
- (a) inform the respondent, in writing, of the substance of the amendment, and
 - (b) if the effect of the amendment causes the complaint to be made against further or other entities—inform the entities, in writing, of the complaint as amended.
- (5) Section 15 applies to the amendment of a complaint in the same way as it applies to the making of a complaint.

Subdivision 4 Declining of complaints during investigation

22 President may decline complaint during investigation

- (1) This section applies if, at any stage of the President's investigation of a complaint—
- (a) the President is satisfied—
 - (i) the complaint, or part of the complaint, is frivolous, vexatious, misconceived or lacking in substance, or
 - (ii) the conduct alleged, or part of the conduct alleged, if proven, would not disclose the contravention of this Act, or
 - (iii) the period of time that has passed since the whole or part of the conduct complained of occurred makes it impracticable to investigate the complaint, or
 - (iv) the nature of the conduct alleged means further action by the President in relation to the complaint, or part of the complaint, is not warranted, or
 - (v) another more appropriate remedy has been, is being or should be pursued in relation to the complaint or part of the complaint, or
 - (vi) the subject matter of the complaint has been, is being or should be dealt with by another entity, or
 - (vii) the respondent has taken appropriate steps to remedy or redress the conduct, or part of the conduct, complained of, or

- (viii) it is not in the public interest to take further action in relation to the complaint or part of the complaint, or
 - (b) the President is satisfied for any other reason no further action should be taken in relation to the complaint or part of the complaint.
- (2) The President may, by written notice given to the complainant, decline the complaint or part of the complaint.
- (3) The notice must include—
 - (a) the reason for declining the complaint or part of the complaint, and
 - (b) the rights of the complainant under sections 27 and 34.

Subdivision 5 Termination of complaints

23 Settlement or resolution of complaint

- (1) If, at any stage of the President's investigation of a complaint, the President is satisfied the complaint, or part of the complaint, has been settled or resolved by agreement between the parties, the President may terminate the complaint or part of the complaint.
- (2) If the President terminates a complaint, or part of a complaint, under this section, the complainant has no right under section 27 to require the President to refer the complaint, or part of the complaint, to the Tribunal.

24 Withdrawal of complaint

- (1) An individual who has made a complaint, other than a representative complaint, may at any time, by written notice lodged with the President, withdraw the complaint.
- (2) The President must terminate the complaint if the President receives a notice under subsection (1) signed by or on behalf of—
 - (a) the complainant, or
 - (b) if there is more than 1 complainant—all the complainants.
- (3) If the President receives a notice under subsection (1) signed by or on behalf of some, but not all, of the complainants, the President must treat the notice as an amendment by removing the names of the individuals as complainants from the complaint.
- (4) The President must give written notice about a termination or amendment of a complaint under this section to the following—
 - (a) the complainant,
 - (b) the respondent,

(c) each individual on whose behalf the complaint was made.

- (5) The President is not required to give a respondent notice of the termination of a complaint under this section if the President has not given notice to the respondent that the complaint was made.

25 Abandonment of complaint

- (1) This section applies if a complainant has failed to—
- (a) respond to a request for documents or information, or
 - (b) give notice to the President of an address or new address at which the complainant may be contacted.
- (2) The President may, by written notice to the complainant at the complainant's last known address, advise the complainant that, if a response is not received within 28 days after the notice is received—
- (a) the complaint will be taken to be abandoned, and
 - (b) the President will terminate the complaint.
- (3) A complaint terminated under this section may be revived if, within 12 months after the end of the 28-day period referred to in subsection (2), the complainant satisfies the President that—
- (a) the complainant wishes to pursue the complaint, and
 - (b) the failure referred to in subsection (1)(a) or (b) did not take place or ought to reasonably be excused, and
 - (c) no undue prejudice would be caused to the respondent by reviving the complaint.

26 Death of complainant or respondent does not terminate complaint

- (1) If a complainant dies before the complainant's complaint is finally determined, the complaint survives and the legal personal representative of the complainant—
- (a) may continue the carriage of the complaint, including any referral, review or appeal, and
 - (b) the estate of the complainant is entitled to the benefit of any monetary sum ordered to be paid by the respondent in relation to the complaint.
- (2) If a respondent dies before a complaint against the respondent is finally determined—
- (a) the complainant may continue to pursue the complaint, including any referral, review or appeal, and

- (b) any monetary sum ordered to be paid in relation to the complaint is payable from the estate of the respondent.

Subdivision 6 Referral of complaints to Tribunal

27 Referral of complaints to Tribunal at requirement of complainant

- (1) If the President has given a complainant a notice under section 10(5) or 22(2), the complainant may, within 21 days after the date on which the notice was given, require the President, by written notice, to refer the complaint to the Tribunal.
- (2) On receipt of a notice under subsection (1) from the complainant, the President must refer the complaint to the Tribunal.

28 Referral of unresolved complaints to Tribunal after 18 months

- (1) If a complaint has not been declined, terminated or otherwise resolved within 18 months after the date on which it was made, a party to the complaint may request the President, by written notice, to refer the complaint to the Tribunal.
- (2) On receipt of the notice, the President must give written notice to all the other parties to the complaint of the request.
- (3) If, within 28 days after the President gives notice to all the other parties, no party has objected to the referral of the complaint, the President must refer the complaint to the Tribunal.
- (4) If the complainant objects to the referral of the complaint, the President must not refer the complaint to the Tribunal, but may, if satisfied there is no reasonable prospect of a conciliated agreement, terminate the complaint.
- (5) If the respondent objects to the referral of the complaint, the President must, if the complainant consents, refer the complaint to the Tribunal, unless satisfied there are reasonable prospects of a conciliated agreement.

29 Other referral of complaints to Tribunal

- (1) This section applies if the President—
 - (a) considers that a complaint cannot be resolved by conciliation, or
 - (b) has tried to resolve a complaint by conciliation but has not been successful, or
 - (c) considers that, because of the nature of a complaint, the complaint should be referred to the Tribunal, or
 - (d) is satisfied that all parties wish the complaint to be referred to the Tribunal and it is appropriate in the circumstances to make the referral.

- (2) The President must, with the complainant's consent, refer the complaint to the Tribunal.

Note—

The President may also refer a complaint to the Tribunal under section 17(6).

30 Severing complaints

If there is more than 1 complainant or respondent to a complaint, the President may, in dealing with the complaint under section 28 or 29, if the President thinks fit, treat the complaint as a number of complaints by or against each complainant or respondent.

31 Form of complaint to be referred to Tribunal

- (1) If a complaint is referred to the Tribunal under this division, the complaint must comprise—
 - (a) the original complaint lodged with the President, and
 - (b) any amendment made under section 21, and
 - (c) any other documents or information obtained or recorded by the President that, in the President's opinion, help to identify the subject matter of the complaint or otherwise contain an allegation of a contravention of a provision of this Act or the regulations.
- (2) A complaint referred to the Tribunal must be accompanied by a report relating to any investigation by the President of the complaint.

Subdivision 7 Miscellaneous

32 Delegation—officers of President

- (1) The President may delegate the exercise of a function of the President under this part to—
 - (a) a specified individual, or
 - (b) the holder of a specified office.
- (2) An individual who is a delegate of the President under this section is a member of staff of the President.
- (3) Nothing in this section limits the application of the [Interpretation Act 1987](#), section 49.

Division 4 Complaints referred to Tribunal

33 Referral of complaints to Tribunal

- (1) A complaint may be referred to the Tribunal by the President under section 17, 27, 28

or 29.

(2) The Minister may refer any matter to the Tribunal as a complaint.

34 Leave of Tribunal required for inquiry into certain matters

A complaint referred to the Tribunal on the requirement of a complainant under section 27(1) may not be the subject of proceedings before the Tribunal without the leave of the Tribunal.

35 Fees or rewards for representing parties

An entity, other than an Australian legal practitioner, is not entitled to demand or receive a fee or reward that is provided for the purpose of representing a party in proceedings before the Tribunal relating to a complaint.

36 Member of staff assisting Tribunal

- (1) The Tribunal may make arrangements with the Board for a member of staff of the Board to appear and assist the Tribunal in proceedings before the Tribunal relating to a complaint.
- (2) A member of staff of the Board who assists the Tribunal in proceedings under arrangements made under this section is subject to the control and direction of the Tribunal.

37 Single proceeding in relation to several complaints

If, in the Tribunal's opinion, 2 or more complaints arise out of the same or substantially the same circumstances or subject matter, the Tribunal may deal with the complaints in the same proceedings.

38 Determinations with respect to representative complaints

- (1) In proceedings relating to a representative complaint, the Tribunal must determine, as a preliminary matter, whether the complaint should be dealt with as a representative complaint.
- (2) The Tribunal must not permit a complaint to be dealt with as a representative complaint unless the Tribunal is satisfied the complaint is made in good faith as a representative complaint.
- (3) In considering whether a complaint is made in good faith as a representative complaint, the Tribunal must be satisfied—
 - (a) that—
 - (i) the complainant is a member of a class of entities whose members have been affected, or may reasonably be likely to be affected, by the conduct of the

respondent, and

- (ii) the complainant has in fact been affected by the conduct of the respondent, and
- (iii) the class is so numerous that joinder of all its members is impracticable, and
- (iv) there are questions of law or fact common to all members of the class, and
- (v) the claims of the complainant are typical of the claims of the class, and
- (vi) multiple complaints would be likely to produce varying determinations that could have incomparable or inconsistent results for the individual members of the class, and
- (vii) the respondent has acted on grounds apparently applying to the class as a whole, making relief appropriate for the class as a whole, or

(b) that, even though the requirements of paragraph (a) are not satisfied, the justice of the case demands that the matter be dealt with and a remedy provided by means of a representative complaint.

- (4) If the Tribunal is satisfied a complaint could be dealt with as a representative complaint if the class of individuals on whose behalf the complaint was made is increased, reduced or otherwise altered, the Tribunal may amend the complaint so the complaint may be dealt with as a representative complaint.
- (5) If the Tribunal is satisfied a complaint has been wrongly made as a representative complaint, the Tribunal may amend the complaint by removing the names of the individuals or the class of individuals on whose behalf the complaint was made so the complaint may be dealt with as a complaint other than a representative complaint.

39 Tribunal may dismiss complaint

The Tribunal may, at any stage in proceedings relating to a complaint, dismiss the whole or part of the complaint on a ground on which the President may decline the whole or part of a complaint under section 22(1)(a)(i) or (ii) or (b).

40 Tribunal may amend complaint

- (1) The Tribunal may, on the application of a party to a complaint or on the Tribunal's own motion, at any stage in proceedings relating to the complaint, amend the complaint.
- (2) A complaint may be amended to include additional complaints and anything else that was not included in the complaint as investigated by the President.
- (3) An amendment may be made subject to conditions the Tribunal thinks fit.

41 Interim orders

- (1) The Tribunal may, on the application of the President after a complaint is made but before the complaint is declined, terminated or otherwise resolved by the President, or referred to the Tribunal, or on the application of a complainant or respondent at any time, make an interim order pending the determination of the matter that is the subject of the complaint—
 - (a) to preserve the status quo between the parties to the complaint, or
 - (b) to preserve the rights of the parties to the complaint, or
 - (c) to return the parties to the complaint to the circumstances they were in before the contravention of this Act or the regulations alleged in the complaint occurred.
- (2) To avoid doubt, the [Civil and Administrative Tribunal Act 2013](#), section 62 applies to an interim order of the Tribunal in the same way as it applies to a general decision of the Tribunal.

42 Order or other decision of Tribunal

- (1) In proceedings relating to a complaint, the Tribunal may—
 - (a) dismiss the complaint in whole or in part, or
 - (b) find the complaint substantiated in whole or in part.
- (2) If the Tribunal finds the complaint substantiated in whole or in part, the Tribunal may do any one or more of the following—
 - (a) except for a matter referred to the Tribunal under section 33(2)—order the respondent to pay the complainant damages not exceeding \$100,000 by way of compensation for any loss or damage suffered because of the respondent's conduct,
 - (b) make an order enjoining the respondent from continuing or repeating any conduct that is unlawful under this Act,
 - (c) except for a representative complaint or a matter referred to the Tribunal under section 33(2)—order the respondent to perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant,
 - (d) order the respondent to publish an apology or a retraction in relation to the matter that is the subject of the complaint and, as part of the order, give directions about the time, form, extent and way of publishing the apology or retraction,
 - (e) make an order declaring void in whole or in part specified in the order a contract or agreement made in contravention of this Act,

(f) decline to take any further action in the matter.

- (3) An order of the Tribunal may extend to conduct of the respondent that affects individuals other than the complainant if the Tribunal, having regard to the circumstances of the case, considers the extension is appropriate.
- (4) The power of the Tribunal to award damages to a complainant is taken, for a complaint lodged by a representative body, to be a power to award damages to the individual on behalf of whom the complaint is made and not to include a power to award damages to the representative body.
- (5) In making an order for damages about a complaint made on behalf of an individual, the Tribunal may make the order the Tribunal thinks fit about the application of damages for the benefit of the individual.
- (6) If the Tribunal makes an order under subsection (2)(b)–(e), the Tribunal may also order that, in default of compliance with the order within the time specified by the Tribunal, the respondent must pay the complainant damages not exceeding \$100,000 by way of compensation for failure to comply with the order.

43 Interest on damages

- (1) Interest accrues on an amount of damages ordered to be paid by the Tribunal from the date on which the order takes effect until payment.
- (2) Despite subsection (1), the Tribunal may order that interest accrues on an amount of damages ordered to be paid by the Tribunal from a date that is earlier than the date on which the order is made.
- (3) Interest referred to in this section accrues at the same rate as that applicable to a judgment of the District Court.

44 Enforcement of orders by President

If the President believes it is in the public interest, the President may—

- (a) for an individual complaint—take steps to enforce an order of the Tribunal on behalf of the complainant with the complainant’s consent, or
- (b) for a representative complaint—take steps to enforce an order of the Tribunal on the President’s own motion.

45 Enforcement of non-monetary orders

- (1) This section applies to an order, or part of an order, of the Tribunal other than an order, or part of an order, for the recovery of an amount ordered to be paid by the Tribunal or a civil or other penalty ordered to be paid by the Tribunal.
- (2) For the purpose of enforcing an order, or part of an order, to which this section

applies, a registrar of the Tribunal may certify the making of the order, or part of the order, and the terms.

- (3) A certificate of a registrar of the Tribunal under this section that is filed in the registry of the Supreme Court operates as a judgment of that Court.
- (4) Nothing in this section limits or otherwise affects the *Civil and Administrative Tribunal Act 2013*, section 78.

46 Relationship between division and NCAT legislation

This division applies in addition to the provisions of the *Administrative Decisions Review Act 1997* and the *Civil and Administrative Tribunal Act 2013*, but prevails over the provisions to the extent of an inconsistency.

Division 5 Additional functions of Board

47 Additional functions of Board

- (1) The Board may, by resolution, decide to do any of the following—
 - (a) carry out investigations, research and inquiries relating to conversion practices,
 - (b) acquire and disseminate knowledge on all matters relating to conversion practices,
 - (c) arrange and coordinate consultations, discussions, seminars and conferences,
 - (d) consult with governmental, business and community groups and organisations,
 - (e) hold public inquiries,
 - (f) liaise or collaborate with academics and other entities engaged in carrying out investigations, research or inquiries relating to conversion practices to facilitate disclosure to the entities of information obtained under this Act.

Note—

The *Privacy and Personal Information Protection Act 1998*, sections 17 and 18 impose limits on the disclosure of personal information by the Board in exercising this function.

- (2) The Board may, for the purposes of exercising any of the Board's functions under this part, enter into an agreement with an entity that provides for payment to the Board for any services or materials the Board supplies.
- (3) A resolution of the Board relating to a matter referred to in subsection (1) or section 48(2) must be implemented by the President.

48 Referral of certain matters to the Board by the Minister

- (1) The Minister may refer to the Board any matter relating to the following that conflicts

with, or may give rise to conflict with, this Act or the regulations—

(a) a law or proposed law,

(b) a practice, alleged practice or proposed practice of a person or a class of persons.

(2) The Board must—

(a) conduct an examination of a matter referred to the Board by the Minister under subsection (1), and

(b) report to the Minister about its findings and conclusions.

Division 6 Confidentiality

49 Definitions

In this division—

court includes a tribunal having power to require the production of documents or the answering of questions.

produce includes to permit access to.

protected information means information about the affairs of an individual or other entity obtained by a relevant person—

(a) while exercising functions under this Act, or

(b) as a result of another person exercising functions under this Act.

relevant person means a person who is or has been—

(a) a member of the Board, or

(b) a member of staff of the Board within the meaning of the [Anti-Discrimination Act 1977](#), section 86, or

(c) a member of staff of the President within the meaning of the [Anti-Discrimination Act 1977](#), section 94C(2), or

(d) another entity acting under the authority of the Board under this Act, or

(e) an academic or other entity referred to in section 47(1)(f).

50 Prohibition on disclosure of protected information

(1) A relevant person must not, directly or indirectly, make a record of, disclose or otherwise communicate protected information to an entity unless—

(a) the making of the record, disclosure or other communication is necessary for the

purposes of, or in connection with, the exercise of a function under this Act or is otherwise permitted under this Act, or

(b) the protected information is otherwise publicly available, or

(c) the protected information is authorised or required to be disclosed under another Act.

Maximum penalty—10 penalty units.

- (2) Protected information is inadmissible in a court and an entity cannot be required, by subpoena or otherwise, to produce or disclose the protected information other than in proceedings, including a prosecution, under or arising out of this Act.
- (3) Protected information may be disclosed or otherwise communicated to the Minister, or recorded for that purpose, if the President certifies, in writing, that the disclosure, other communication or making of the record is necessary in the public interest.

Division 7 Miscellaneous

51 President or Board not to prejudice certain proceedings or investigations

- (1) The President or the Board must not exercise the President's or Board's functions under this Act in a way that would prejudice criminal proceedings or a criminal investigation.
- (2) For ensuring compliance with subsection (1), the President or Board may consult—
- (a) the Director of Public Prosecutions, or
 - (b) the Commissioner of Police.

52 Obstruction

An entity must not, without reasonable excuse, obstruct, hinder or resist—

- (a) the President, or a member of the President's staff, in the exercise of the President's or staff member's functions under this Act, or
- (b) a member of the Board in the exercise of the member's functions under this Act.

Maximum penalty—

- (a) for an individual—10 penalty units, or
- (b) otherwise—50 penalty units.

53 Liability of principals and employers

- (1) An act done by an individual as the agent or employee of the individual's principal or

employer that, if done by the principal or employer, would be a contravention of this Act is taken to also have been done by the principal or employer unless the principal or employer did not, either before or after the doing of the act, authorise the agent or employee, either expressly or by implication, to do the act.

- (2) If both the principal or employer and the agent or employee who did the act are subject to any liability arising under this Act in relation to the doing of the act, they are jointly and severally subject to that liability.
- (3) A principal or employer is not liable under subsection (1) if the principal or employer took all reasonable steps to prevent the agent or employee from contravening this Act.
- (4) For subsection (1), the principal or employer of a volunteer or unpaid trainee who contravenes this Act is the entity on whose behalf the volunteer or unpaid trainee provides services.

Part 5 Miscellaneous

54 Review of Act

- (1) The Minister must review this Act to determine whether—
 - (a) the policy objectives of the Act remain valid, and
 - (b) the terms of the Act remain appropriate for securing the objectives.
- (2) The review must be undertaken as soon as possible after the period of 3 years from the commencement of this Act.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 4 years after the commencement of this Act.

55 Regulations

The Governor may make regulations about a matter that is—

- (a) required or permitted by this Act to be prescribed, or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—

- (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
 - (a) affect the rights of an entity existing before the publication in a way prejudicial to the entity, or
 - (b) impose liabilities on an entity for anything done or omitted to be done before the publication.
- (6) In this section—

entity does not include the State or an authority of the State.

Part 2 Provision consequent on enactment of Act

2 Application of Act only to conduct occurring from commencement

This Act applies only in relation to acts done or omitted to be done on or after the commencement of this Act.

Schedule 2 Dictionary

section 4

Australian Health Practitioner Regulation Agency means the Australian Health Practitioner Regulation Agency established by the [Health Practitioner Regulation National Law \(NSW\)](#), section 23.

Board means the Anti-Discrimination Board under the [Anti-Discrimination Act 1977](#).

conversion practice—see section 3.

court, for Part 4, Division 6—see section 49.

entity includes—

(a) a person, and

Note—

Under the [Interpretation Act 1987](#), Schedule 4, a person includes an individual, a corporation and a body corporate or politic.

(b) an unincorporated body or organisation.

exercise a function includes perform a duty.

function includes a power, authority and duty.

gender identity means the gender-related identity of an individual, which may or may not correspond with the individual's designated sex at birth.

President means the President of the Board under the [Anti-Discrimination Act 1977](#).

produce, for Part 4, Division 6—see section 49.

protected information, for Part 4, Division 6—see section 49.

registered health practitioner has the same meaning as in the [Health Practitioner Regulation National Law \(NSW\)](#).

relevant person, for Part 4, Division 6—see section 49.

sexual orientation—

(a) means an individual's sexual orientation towards—

(i) individuals of the same sex, or

(ii) individuals of a different sex, or

(iii) individuals of the same sex and individuals of a different sex, and

(b) includes having a lack of sexual attraction to any individual of any sex.

Tribunal means the Civil and Administrative Tribunal.

Schedule 3 (Repealed)