

Equal Opportunity (Discrimination against Disabled Persons) Bill 1982

EXPLANATORY NOTES

The object of this Bill is to outlaw discrimination against persons with an impairment in employment, by professional and trade organizations, in the conferring of an authorization or professional qualification, in the provision of goods and services, in education, the provision of accommodation or in sporting activities.

Clause Notes

Clause 1 is the usual citation clause. It provides for the Act to come into operation on a day to be fixed by proclamation.

Clause 2 inserts into section 3 of the *Equal Opportunity Act 1977* (the Principal Act) a definition of the expression "impairment".

Clause 3 inserts a new Part IIIA—Discrimination on the Ground of Impairment—into the Principal Act.

The new Part will contain eleven sections as follows:

Proposed section 27A sets out the grounds on which a person discriminates against another on the basis of an impairment.

Proposed section 27B will make it an offence to discriminate against any person with an impairment in employment (other than in a private household) subject to various qualifications, or unless there is a risk that the person will injure himself or other persons.

Proposed section 27C will make it unlawful for a principal to discriminate against a commission agent, or prospective commission agent on the ground of an impairment subject to similar provisos as expressed in proposed section 27B.

Proposed section 27D will make it unlawful for a principal to discriminate against a contract worker or an employer of contract workers on the ground of a worker's impairment.

Proposed section 27E will render it unlawful for a firm to discriminate against a partner on the ground of an impairment.

Proposed section 27F will make it unlawful for an organization of employers or employees or a professional, trade or business association to discriminate against a person seeking membership on the grounds of that person's impairment, or on the basis it admits him or her to membership. There is an exception relating to the selection of office bearers on the basis of merit.

Proposed section 27G will render it unlawful for any authority empowered to confer an authorization a qualification for or which facilitates the practice of a profession, or the carrying on of a profession, trade or business to discriminate against a person on the grounds of that person's impairment with regard to the authorization or qualification.

Exceptions are made if the person concerned is unable adequately to perform all the work required of holders of the qualification or authorization in question, or if the person is not able to adequately perform some of the work (if the licensing authority does not have power to impose conditions), or in the imposing of conditions or limitations having regard to the impairment, or may in performing the work required of him risk injury to others or where there is a substantial risk of injury to himself.

Proposed section 27H will make it unlawful to discriminate on the ground of a person's impairment in the provision of goods or specified services except in the terms in which assurance or similar policies are offered or if the service is required to be performed in a special manner and cannot reasonably be provided.

Proposed section 27I will render it unlawful for an educational authority to discriminate on the ground of an impairment by refusing to accept an application for admission as a student or in the terms on which it accepts a person as a student unless special services are required and cannot be made available or the person is unable to benefit from the educational programme.

Proposed section 27J will make it unlawful to discriminate against a person on the ground of impairment in the provision of accommodation, and will also make it unlawful to refuse accommodation because a person has a guide or hearing ear dog.

The new section will also enable a person with an impairment to modify accommodation at his own expense provided he undertakes to restore it, and alterations to another occupier's premises are not necessary, and will override any covenant or obligation in respect of land to the extent that compliance would have resulted in an act of discrimination.

Proposed section 27K prohibits discrimination on the ground of impairment in any sporting activity, unless the person cannot perform the required actions, persons participating are chosen on the basis of their skills and abilities, or the sporting activity is solely for persons with some other impairment.

Clause 4 inserts a reference to "impairment" in section 38 (1) of the Principal Act. This section provides for the lodging of complaints of alleged discrimination with the Registrar of the Equal Opportunity Board.

Clause 5 makes consequential amendments to various other sections of the Principal Act.