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Australia: An Act to amend the Equal Opportunity Act, 1984

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An Act to amend the Equal Opportunity Act, 1984.

The Parliament of South Australia enacts as follows:

[Assented to 29 October 1989]

Short title

1. (1) This Act may be cited as the *Equal Opportunity Act Amendment Act, 1989*.

(2) The *Equal Opportunity Act, 1984*, is in this Act referred to as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of long title

3. The long title to the principal Act is amended by inserting "or intellectual- after "physical".

Repeal of s. 66 and substitution of new section

20. Section 66 of the principal Act is repealed and the following section is substituted:

Criteria for establishing discrimination on the ground of impairment

66. For the purposes of this Act, a person discriminates on the ground of impairment

(a) if he or she treats another unfavourably because of the other's impairment, or a past or presumed impairment;

(b) if he or she treats another unfavourably because the other does not comply, or is not able to comply, with a particular requirement and

(i) the nature of the requirement is such that a substantially higher proportion of persons who do not have such an impairment complies, or is able to comply, with the requirement than of those persons who have such an impairment;

and

(ii) the requirement is not reasonable in the circumstances of the case,

(c) if he or she treats another unfavourably on the basis of a characteristic that appertains generally to persons who have such an impairment, or on the basis of a presumed characteristic that is generally imputed to persons who have such an impairment;

(d) if, in circumstances where it is unreasonable to do so

(i) he or she fails to provide special assistance or equipment required by a person in consequence of the person's impairment;

or

(ii) he or she treats another unfavourably because the other requires special assistance or equipment as a consequence of the other's impairment;

(e) if he or she treats a person who is blind or deaf, or partially blind or deaf, unfavourably because the person possesses, or is accompanied by, a guide dog, or because of any related matter (whether or not it is his or her normal practice to treat unfavourably any person who possesses, or is accompanied by, a dog).

Amendment of ss. 67, 68, 69 and 70

21. Sections 67, 68, 69 and 70 of the principal Act are amended by striking out "his physical" wherever occurring.

Exemptions

22. Section 71 of the principal Act is amended by striking out from Subsection (2) "physical".

Discrimination by associations on ground of impairment

23. Section 72 of the principal Act is amended

- a. by striking out "his physical" twice occurring;
- b. by striking out "or" between subparagraphs (i) and (ii); and

(c) by inserting after subparagraph (ii) of paragraph (b) the following word and subparagraph:

or

(iii) by expelling that member from the association or subjecting him or her to any other detriment

Discrimination by qualifying bodies

24. Section 73 of the principal Act is amended by striking out "his physical" twice occurring.

Discrimination by educational authorities

25. Section 74 of the principal Act is amended

(a) by striking out from subsection (1) "his physical";

(b) by inserting after "a student" in subsection (2) "on the ground of impairment";

and

c. by striking out from subsection (3) "physical" twice occurring.

Discrimination by person disposing of an interest in land

26. Section 75 of the principal Act is amended by striking out from subsection (1) "his physical".

Discrimination in provision of goods and services

27. Section 76 of the principal Act is amended

(a) by striking out from subsection (1) "to the public, or a section of the public,";

(b) by striking out from subsection (1) "against a person" and substituting "against

another on the ground of impairment";

and

(c) by striking out from subsection (2) "physical" twice occurring.

Discrimination in relation to accommodation

28. Section 77 of the principal Act is amended by striking out "his physical" twice occurring.

Superannuation schemes and provident funds

29. Section 78 of the principal Act is amended by striking out from subsection (1) "his physical".

Exemption in relation to salary, etc.

30. Section 79 of the principal Act is amended by striking out "physical".

Exemption for charities

31. Section 80 of the principal Act is amended by striking out from paragraph (a) "physical".

Repeal of s. 81 and substitution of new section

32. Section 81 of the principal Act is repealed and the following section is substituted:

Exemption in relation to sporting activities

81. This Part does not render unlawful the exclusion of a person who has an impairment from participation in a sporting activity

(a) if the activity requires physical or intellectual attributes that the person does not possess;

or

(b) if, in the case of a sporting activity conducted wholly or mainly for persons who have a particular impairment, the person's impairment is not of that kind.

Exemption for projects for benefit of persons with a particular impairment

33. Section 82 of the principal Act is amended by striking out "physical".

Repeal of s. 83

34. Section 83 of the principal Act is repealed.

Exemption in relation to insurance, etc.

35. Section 85 of the principal Act is amended by striking out "physical".