

Equal Opportunity (Discrimination against Disabled Persons) Bill

EXPLANATORY NOTES

The object of this Bill is to outlaw discrimination against persons with a physical impairment.

In the case of discrimination in employment, the meaning of physical impairment is extended by the Bill to include mental retardation and, in the case of other forms of discrimination, to also encompass a mental or psychological disease or disorder.

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 “physical impairment”.

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

The new Part will contain twelve sections as follows:

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

Proposed section 27B will make it an offence to discriminate against any person with a physical impairment in employment (other than in a private household) unless any special services or facilities are required and cannot be reasonably made available or the person, for any other reason, is unable to adequately carry out the work.

Proposed section 27C will make it unlawful for a principal to discriminate against a commission agent, or prospective commission agent unless the agent or prospective agent is incapable of adequately carrying out the work of a commission agent.

Proposed section 27D will make it unlawful for a principal to discriminate against a contract worker or an employer of contract workers. As in the case of earlier proposed new sections, an exception is made if the person concerned is incapable of carrying out the work of a contract worker.

Proposed section 27E will render it unlawful for a firm to discriminate against a partner on the ground of physical impairment except if the person is incapable of carrying out the duties of a partner.

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 physical impairment, or on the basis it admits him or her to membership.

Proposed section 27G will render it unlawful for any authority empowered to confer in authorization a qualification for or facilities 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 physical impairment with regard to the authorization or qualification.

Exceptions are made if the person concerned is unable to perform all the work required of holders of the qualification or authorization in question, or if the person is not able to 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 physical impairment.

Proposed section 27H will make it unlawful to discriminate on the ground of physical impairment in the provision of goods or specified services.

Proposed section 27I will render it unlawful for an educational authority to discriminate on the ground of physical impairment by refusing to accept an application for admission as a student or in the terms on which it admits a person as a student.

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

Proposed section 27K will require persons undertaking the provision of any building or premises to which the public are to be admitted or which is to be used as a school, to make provision in the means of access and in the parking facilities and sanitary conveniences for the needs of persons with a physical impairment insofar as it is practicable and reasonable.

Proposed section 27L will enable a person with a physical impairment to be excluded from a sporting activity other than coaching or the administration of a sporting activity or in any prescribed sporting activity.

Clause 4 inserts a reference to "physical 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.