



Australian Capital Territory

# Discrimination Amendment Act 2003

A2003-15

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Australian Capital Territory

# Discrimination Amendment Act 2003

A2003-15

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An Act to amend the *Discrimination Act 1991*

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*Notified under the Legislation Act 2001 on 27 March 2003  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1 Name of Act**

This Act is the *Discrimination Amendment Act 2003*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Act amended**

This Act amends the *Discrimination Act 1991*.

**4 Interpretation for Act  
Section 4 (1), definition of *de facto spouse***

*omit*

**5 Section 4 (1), definition of *impairment***

*substitute*

*impairment*—see section 5AA (Meaning of *impairment*).

**6 Section 4 (1), definitions of *marital status* and *near relative***

*omit*

**7 Section 4 (1), new definition of *relationship status***

*insert*

*relationship status* means the status or condition of being—

- (a) single; or
- (b) married; or
- (c) married but living separately and apart from one's spouse; or

- (d) divorced; or
- (e) widowed; or
- (f) the domestic partner (other than the spouse) of someone else.

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

## **8 Section 4 (1), definition of *relative***

*substitute*

*relative*, of a person, means—

- (a) a person who is related to the person by blood, marriage, affinity or adoption; or
- (b) a domestic partner of the person or of a person mentioned in paragraph (a).

## **9 New section 5AA**

*after section 5, insert*

### **5AA Meaning of *impairment***

- (1) In this Act:

*impairment* means—

- (a) total or partial loss of a bodily function; or
- (b) total or partial loss of a part of the body; or
- (c) malfunction of a part of the body; or
- (d) malformation or disfigurement of a part of the body; or
- (e) the presence in the body of organisms that cause or are capable of causing disease; or
- (f) an illness or condition which impairs a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour; or

- (g) an intellectual disability or developmental delay.
- (2) Except in section 49 (Work related discrimination) and section 50 (Discrimination by qualifying bodies etc), *impairment* includes an impairment—
  - (a) that the person has, or is thought to have (whether or not the person in fact has the impairment); or
  - (b) that the person had in the past, or is thought to have had in the past (whether or not the person in fact had the impairment); or
  - (c) that the person will have in the future, or is thought will have in the future (whether or not the person in fact will have the impairment).

**10 Grounds  
Section 7 (1) (d)**

*substitute*

- (d) relationship status;

**11 Section 7 (1)**

*renumber paragraphs when Act next republished under Legislation Act 2001*

**12 Domestic accommodation etc  
Section 26**

*omit*

Nothing in section 21 renders

*substitute*

- (1) Section 21 does not make

**13 New section 26 (2)**

*insert*

(2) In this section:

*near relative*, of a person, means—

- (a) a parent, child, grandparent, grandchild, brother or sister of the person; or
- (b) a domestic partner of the person or of a person mentioned in paragraph (a).

*Note* For the meaning of *domestic partner*, see Legislation Act, s 169.

#### **14 Division 4.2 heading**

*substitute*

### **Division 4.2 Exceptions about sex, relationship status, pregnancy or breastfeeding**

#### **15 Section 35**

*substitute*

#### **35 Employment of couple**

Part 3 does not make unlawful discrimination against a person on the grounds of relationship status in relation to a job that is 1 of 2 jobs to be held by a couple in a domestic partnership.

*Note* For the meaning of *domestic partnership*, see Legislation Act, s 169.

#### **16 Accommodation provided for employees, contract workers or students Section 39 (1)**

*omit everything before paragraph (a), substitute*

- (1) Part 3, in its application in relation to discrimination on the ground of sex, relationship status, pregnancy or breastfeeding, does not make it unlawful for an employer or principal who provides

accommodation to employees or contract workers to provide accommodation of different standards to different employees or contract workers if—

## **17 Work related discrimination Section 49 (1)**

*substitute*

- (1) Section 10 (1) (b) or (2) (c), section 12 (1) (b) or (2) (c), section 13 (b) or section 14 (1) (a), (2) (a) or (3) (b) do not make unlawful discrimination by a person (the *first person*) against someone else (the *second person*) on the ground of impairment if the first person believes on reasonable grounds that, because of an impairment—
- (a) the second person is, or would be, unable to carry out work that is essential to the position concerned; or
  - (b) the second person requires, or would require, to carry out the work, services or facilities that would not be required by a person who does not have the impairment and providing the services or facilities would impose unjustifiable hardship on the first person.

## **18 New section 49 (3)**

*insert*

- (3) In this section:

*impairment*, of a person, includes an impairment that the person has.

*Note* *Impairment* is defined for the Act in s 5AA (1).

## **19 Discrimination by qualifying bodies etc Section 50**

*omit*

Nothing in section 16 renders



*substitute*

- (1) Section 16 does not make

## **20 New section 50 (2)**

*insert*

- (2) In this section:

***impairment***, of a person, includes an impairment that the person has.

*Note* ***Impairment*** is defined for the Act in s 5AA (1).

## **21 Section 85**

*substitute*

### **85 Conciliated agreements**

- (1) If a complaint has been resolved by conciliation, the commissioner must help the parties make a written record (the ***agreement***) of the agreement they have reached.
- (2) Each party must sign the agreement.
- (3) The commissioner must—
- (a) give each party a copy of the agreement; and
  - (b) tell the parties that the commissioner will not take any further action about the complaint to which the agreement relates; and
  - (c) give the agreement to the tribunal.
- (4) The agreement is enforceable as if it were an order of the tribunal.

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## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

*[Presentation speech made in Assembly on 21 November 2002]*

I certify that the above is a true copy of the Discrimination Amendment Bill 2003 which originated in the Assembly as the Discrimination Amendment Bill 2002 (No 2) and was passed by the Legislative Assembly on 13 March 2003.

Clerk of the Legislative Assembly

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