

1991  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

**Teaching Service (Amendment) Bill 1991**

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**A BILL**

**FOR**

**An Act to amend the *Teaching Service Act 1972***

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

**Short title**

- 5 1. This Act may be cited as the *Teaching Service (Amendment) Act 1991*.

**Principal Act**

2. In this Act, "Principal Act" means the *Teaching Service Act 1972*.<sup>1</sup>

**Officers**

- 10 3. Section 20 of the Principal Act is amended by omitting from paragraphs (2) (a), (b), (d) and (e) "he" and substituting "the person".

**Recruitment**

4. Section 21 of the Principal Act is amended by omitting subparagraph (2) (c) (i).

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**Heading to Division 7 of Part III**

5. The heading to Division 7 of Part III of the Principal Act is omitted and the following heading substituted:

**“Division 7—Personnel Management”.****5 Interpretation**

6. Section 38 of the Principal Act is amended—

- (a) by omitting from subsection (1) the definitions of “appropriate staff organisation”, “program” and “unjustified discrimination”;
- (b) by inserting in subsection (1) the following definitions:

10 “ ‘designated group’ means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- 15 (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;
- (c) persons who are physically or mentally disabled;
- (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition;

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‘unjustified discrimination’ includes—

- (a) discrimination that is unlawful under the *Human Rights and Equal Opportunity Act 1991*; and
- 25 (b) unjustified discrimination on the ground of age or social origin;

but does not include—

- (c) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is prescribed; or
- 30 (d) discrimination that is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is in accordance with the equal employment opportunity program for the relevant component of the Service or with a prescribed program.”; and

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(c) by omitting subsection (2).

### Substitution

7. Sections 39 and 40 of the Principal Act are repealed and the following section is substituted:

#### 5 Employment practices

“39. (1) The powers of each relevant authority in relation to employment matters shall be exercised—

- (a) without patronage, favouritism or unjustified discrimination; and
- (b) with regard to the equal employment opportunity program for the relevant component of the Service.

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“2) Without limiting the generality of paragraph (1) (a), and subject to paragraph (1) (b), the powers of each relevant authority in relation to the appointment of officers and employees shall be exercised in accordance with procedures that ensure that where an appointment is to be made to the relevant component of the Service for a period exceeding 3 months—

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- (a) all persons who are eligible for the appointment have, so far as practicable, a reasonable opportunity to apply for it; and
- (b) the appointment is made on the basis of an assessment of the relative suitability of the applicants for the appointment having regard to—
  - (i) the nature of the duties to be performed; and
  - (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of those duties.

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“3) A reference in this section to the exercise of a power shall be read as including a reference to the making of a report or recommendation in relation to the exercise of that power.

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“4) The equal employment opportunity program for a component of the Service, being a program in force immediately before the commencement of this section, continues in force subject to this section.

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“5) Where a component of the Service has no equal employment opportunity program, as soon as practicable and, in any event, within 12 months after the component comes into existence, the relevant authority shall, after consulting with each relevant staff organisation and such other persons as the authority considers appropriate, develop an equal employment opportunity program for that component.

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“6) From time to time, the relevant authority for each component of the

Service shall, after consulting with each relevant staff organisation and such other persons as the authority considers appropriate, review the equal employment opportunity program for the component.

5 “(7) As soon as practicable after the development or review of the equal employment opportunity program, the relevant authority concerned shall provide the Head of Administration with written particulars of the program.

10 “(8) The Head of Administration may, from time to time, by notice in writing given to the relevant authority, issue guidelines to the relevant authority on the provisions to be made by the equal employment opportunity program, and on the development, implementation or review of the program.

“(9) The relevant authority shall take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines issued under subsection (8).”

#### 15 **Chairperson**

8. Each of the following provisions of the Principal Act is amended by omitting “Chairman” (wherever occurring) and substituting “Chairperson”:

20 Paragraph 30 (2) (a), subsections 30 (3), (3A) and (3C), paragraphs 30 (8) (a) and (b) and 37 (2) (a), subsection 37 (3), paragraphs 37 (4) (a) and (b), subsection 37 (6), paragraphs 37 (8) (a) and (b) and 43Y (1) (a), subsection 43Y (2), paragraphs 43Y (2) (a) and (b) and subsection 43Y (4).

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#### NOTE

1. Commonwealth Act No. 13, 1972 as amended, and as modified for the Territory upon Self-Government day by section 8 of Commonwealth Act No. 109, 1989 and as amended by Ordinances Nos. 21 and 32, 1989; Act No. 53, 1991.