

Serial
Anti-Discrimination Amendment Bill 2022
Mr Paech

A Bill for an Act to amend the *Anti-Discrimination Act 1992* and the
Anti-Discrimination Regulations 1994

CONSULTATION DRAFT ONLY

**PREPARED FOR THE DEPARTMENT OF THE ATTORNEY-GENERAL
AND JUSTICE**

NORTHERN TERRITORY OF AUSTRALIA

ANTI-DISCRIMINATION AMENDMENT ACT 2022

Act No. [] of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2022

An Act to amend the *Anti-Discrimination Act 1992* and the *Anti-Discrimination Regulations 1994*

[Assented to [] 2022]
[Introduced [] 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Anti-Discrimination Amendment Act 2022*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 1 July 2024, it commences on that day.

Part 2 Amendment of Anti-Discrimination Act 1992

3 Act amended

This Part amends the *Anti-Discrimination Act 1992*.

4 Section 3 amended (Objects)

Section 3(b) and (c)

omit, insert

- (b) to eliminate discrimination, sexual harassment and victimisation to the greatest extent possible; and
- (c) to promote the identification and elimination of systemic discrimination.

5 Section 4 amended (Interpretation)

- (1) Section 4(1), definitions ***educational institution, guide dog, impairment, man, marital status, parenthood, sexuality, woman, work***

omit

- (2) Section 4(1), definition ***advertisement***, paragraphs (a) and (b)

omit, insert

- (a) in a newspaper, on the internet or in another publication, whether in printed or electronic form; and
- (b) by television, radio or a streaming service; and

- (3) Section 4(1), definition ***club***, paragraph (b)

omit

association; and

insert

association.

- (4) Section 4(1), definition ***club***, paragraph (c)

omit

- (5) Section 4(1), definition ***proceeding***, after "conciliation"

insert

, an investigation

- (6) Section 4(1), definition ***prohibited conduct***, after paragraph (c)

insert

(ca) offensive behaviour;

- (7) Section 4(1), definition ***prohibited conduct***, paragraph (f)
omit
failure
insert
contravention of duty
- (8) Section 4(1), definition ***prohibited conduct***, after paragraph (f)
insert
(fa) systemic discrimination; or
- (9) Section 4(1), definition ***respondent***, after "the person"
insert
or organisation
- (10) Section 4(1), definition ***respondent***, after "conduct"
insert
or systemic discrimination
- (11) Section 4(1)
insert
accommodation status includes being:
- (a) a tenant, boarder, lodger, licensee; or
 - (b) itinerant, transient or homeless; or
 - (c) a resident of an aged care facility, disability accommodation or supported care accommodation.

acting in an official capacity means the person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

assistance animal, see section 4A.

carer responsibilities means whether or not the person has responsibilities as a parent, family member, near relative or through kinship or another form of care responsibility.

disability includes the following:

- (a) the total or partial loss of a bodily function;
- (b) the presence in the body of an organism that has caused or is capable of causing disease;
- (c) the presence in the body of organisms impeding, capable of impeding or that may impede the capacity of the body to combat disease;
- (d) total or partial loss of a part of the body;
- (e) the malfunction or dysfunction of a part of the body;
- (f) the malformation or disfigurement of a part of the body;
- (g) reliance on an assistance animal or a wheelchair or other remedial device;
- (h) physical or intellectual disability;
- (i) psychiatric or psychological disease or disorder, whether permanent or temporary;
- (j) a condition, malfunction or dysfunction that results in a person learning more slowly than another person without that condition, malfunction or dysfunction.

domestic violence, see section 5 of the *Domestic and Family Violence Act 2007*.

educational institution includes the following:

- (a) a childcare centre, school, college, university or other institution at which any form of training or instruction is provided;
- (b) a place at which training or instruction is provided by an employer.

relationship status means whether or not a person:

- (a) is single; or
- (b) is married; or
- (c) is married but living separately and apart from the person's spouse; or
- (d) is married, or has been married, to a particular person; or

- (e) is divorced; or
- (f) is a surviving spouse or de facto partner; or
- (g) is a de facto partner; or
- (h) is the de facto partner, or was the de facto partner, of a particular person.

representative complaint means a complaint mentioned in section 60(c).

sexual orientation means each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of the same gender, a different gender or more than one gender.

sex characteristics means an intersex person's physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones and secondary physical features emerging from puberty.

sex work, see section 4 of the *Sex Industry Act 2019*.

socio-economic disadvantage means that at least one of the following applies to a person:

- (a) the person is reliant on welfare or housing assistance;
- (b) the person has a low income or is unemployed;
- (c) the person has a low level of education;
- (d) any other similar disadvantaged circumstance that impacts the person's ability to obtain the necessities of life.

systemic discrimination means behaviour, practices, policies or programs of an organisation that have the effect of creating or perpetuating disadvantage for a group that shares a protected attribute.

work includes work carried out in any capacity and at any place, including as:

- (a) an employee; or
- (b) a contractor or subcontractor; or
- (c) an employee of a contractor or subcontractor; or
- (d) an employee of a labour hire company; or

- (e) an outworker; or
 - (f) an apprentice or trainee; or
 - (g) a student or other person gaining work experience, whether formal or informal; or
 - (h) a volunteer or on another unpaid basis; or
 - (i) a statutory appointee; or
 - (j) part of a vocational training program or other occupational training or retraining program; or
 - (k) a person of a prescribed class.
- (12) Section 4, at the end

insert

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

6 Section 4A inserted

After section 4

insert

4A Assistance animals

- (1) An **assistance animal** is an animal trained or accredited to assist, in a public place, a person with a disability in relation to the disability.
- (2) In this section:

trained or accredited means trained or accredited by a training organisation or State or Territory body prescribed by regulation.

7 Section 6 amended (Commissioner)

Section 6(2)

omit

3

insert

5

8 Section 13 amended (Functions of Commissioner)

After section 13(h)

insert

(ha) to conduct investigations as to compliance with the duty in Part 2A or under Part 6, Division 4B and to take any required action arising out of those investigations;

9 Part 2A inserted

After section 18

*insert***Part 2A Positive duty to eliminate discrimination, sexual harassment and victimisation****18A Purpose of Part**

The purpose of this Part is to provide for the taking of positive action to eliminate discrimination, sexual harassment and victimisation to the greatest extent possible.

18B Duty to eliminate discrimination, sexual harassment or victimisation

- (1) This section applies to a person who is prohibited under Part 3 or 4 from engaging in discrimination, sexual harassment or victimisation.
- (2) A person must take reasonable and proportionate measures to eliminate that discrimination, sexual harassment or victimisation to the greatest extent possible.
- (3) Part 6, Division 4A does not apply to a contravention of the duty imposed by subsection (2).
- (4) In determining whether a measure is reasonable and proportionate the following factors must be considered:
 - (a) the size of the person's business or operations;
 - (b) the nature and circumstances of the person's business or operations;
 - (c) the person's resources;

- (d) the person's business and operational priorities;
 - (e) the practicability and the cost of the measure.
- (5) In this section:

victimisation has the meaning given by section 23(2).

18C Outcome of investigation

- (1) After conducting an investigation into the compliance with the duty mentioned in section 18A, the Commissioner may take any action the Commissioner thinks fit.
- (2) Without limiting subsection (1), the Commissioner may do the following:
- (a) take no further action;
 - (b) enter into an agreement with a person about action required to comply with this Act;
 - (c) make a report in relation to the investigation to the Minister;
 - (d) make a report in relation to the investigation to the Legislative Assembly.

10 Section 19 amended (Prohibition of discrimination)

- (1) After section 19(1)(a)
insert
- (ab) language, including non-verbal language;
- (2) Section 19(1)(c)
omit, insert
- (ba) gender;
 - (c) sexual orientation;
 - (ca) sex characteristics;
- (3) Section 19(1)(e)
omit, insert
- (e) relationship status;

- (ea) accommodation status;
- (eb) socio-economic disadvantage;
- (ec) employment as to sex work, including past sex work;
- (4) Section 19(1)(g)
omit, insert
- (g) carer responsibilities;
- (5) Section 19(1)(j)
omit, insert
- (j) disability;
- (ja) subjected to domestic violence;

11 Section 20A inserted

After section 20

insert

20A Offensive behaviour because of attribute

- (1) A person must not do an act that:
 - (a) is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
 - (b) is done because of an attribute of the other person or of some or all of the people in the group.
- (2) Subsection (1) does not apply to an act done in private.
- (3) For subsection (2), an act is taken not to be done in private if it:
 - (a) causes words, sounds, images or writing to be communicated to the public; or
 - (b) is done in a public place; or
 - (c) is done in the sight or hearing of people who are in a public place.
- (4) In this section:

public place includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.

20B Exemptions to section 20A

Section 20A does not prevent anything said or done reasonably and in good faith:

- (a) in the performance, exhibition or distribution of an artistic work; or
- (b) in the course of any statement, publication, discussion or debate made or held for any genuine academic, artistic or scientific purpose or any other genuine purpose in the public interest; or
- (c) in making or publishing:
 - (i) a fair and accurate report of any event or matter of public interest; or
 - (ii) a fair comment on any event or matter of public interest, if the comment is an expression of a genuine belief held by the person making the comment.

12 Section 21 amended (Discrimination by refusing to allow guide dog, &c.)

- (1) Section 21, heading

omit

guide dog, &c.

insert

assistance animal

- (2) Section 21(1)

omit, insert

- (1) For this Act, a person discriminates on the ground of disability against a person if the person treats the person with the disability less favourably because the person has an assistance animal.

- (3) Section 21(2)

omit

dogs

insert

animals, or animals of a particular kind

(4) Section 21(3)

omit

impairment

insert

disability

(5) Section 21(4)

omit

a guide dog for any damage caused by the guide dog

insert

an assistance animal for any damage caused by the assistance animal

(6) After section 21(4)

insert

(5) Nothing in this Act makes it unlawful for a person to:

(a) request a person with a disability to produce evidence that an animal is an assistance animal; and

(b) if the person with a disability does not produce evidence the animal is an assistance animal – discriminate against the person on the ground that the person has the animal.

13 Section 22 amended (Prohibition of sexual harassment)

(1) Section 22(1)

omit

, in an area of activity referred to in Part 4,

(2) Section 22(2)(f)

omit

that he or she is

insert

they are

(3) Section 22(2)(f)

omit

he or she objects

insert

they object

(4) Section 22(3)(a)

omit, insert

(a) the race, sex, sexual orientation, gender, sex characteristics, age, relationship status or religious belief or activity of the other person; and

(5) Section 22(3)(b)

omit

impairment

insert

disability

14 Section 24 amended (Failure to accommodate special need)

(1) Section 24, heading

omit

Failure

insert

Duty

(2) Section 24(1)

omit

shall not fail or refuse to

insert

must

(3) Section 24(2)

omit, insert

(2) For subsection (1):

(a) accommodation of a special need of another person means making adequate or appropriate provision to accommodate the special need; and

(b) accommodation of a special need takes place when a person acts in a way that reasonably provides for the special need of another person who has the special need because of an attribute.

(4) Section 24(3)

omit

has unreasonably failed to provide

insert

reasonably provided

15 Section 28 amended (Areas of activities)

(1) Section 28(b), after "work"

insert

and at the workplace

(2) Section 28(f)

omit

superannuation

insert

superannuation; and

(3) After section 28(f)

insert

(g) the administration of laws and government programs.

16 Section 30 amended (Exemptions)

(1) Section 30(2)

omit

(2) Section 30(3)

omit (all references)

impairment

insert

disability

17 Section 37A amended (Exemption – religious educational institutions)

Section 37A(a) and (b)

omit, insert

(a) is on the grounds of religious belief or activity; and

(b) enables, or better enables, the application of the doctrine in the educational institution.

18 Section 40 amended (Exemptions)

(1) Section 40(2A)

omit

(2) Section 40(2B)

omit (all references)

impairment

insert

disability

(3) Section 40(3)(a)

omit, insert

(a) the accommodation concerned is:

- (i) under the direction or control of a body established for religious purposes; and
- (ii) wholly within or directly attached to religious premises; and

19 Section 41 amended (Discrimination in goods, services and facilities area)

- (1) Section 41(1)

omit

(1)

- (2) Section 41(1), after "supplies"

insert

or receives

- (3) Section 41(1)(a), after "supply"

insert

or receive

- (4) Section 41(1)(b) and (c), after "supplied"

insert

or received

- (5) Section 41(1)(d), after "supply"

insert

or receipt

- (6) Section 41(2)

omit

20 Section 43 amended (Exemptions – cultural or religious sites)

- (1) Section 43, before "A"

insert

(1)

- (2) Section 43, at the end

insert

- (2) In subsection (1), a place of cultural or religious significance may include a place that is not a sacred site as defined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

21 Section 47 amended (Exemptions)

- (1) Section 47(1)

omit

exclude

insert

discriminate against

- (2) After section 47(1)

insert

- (1A) A club, the committee of management of a club or a member of the committee of management may discriminate against applicants for membership of the club who are not members of the group of people of a particular sex, gender, sexual orientation or sex characteristics, if the club was established and operates wholly or mainly for persons of that specific sex, gender, sexual orientation or those sex characteristics (as the case may be).
- (1B) A club, the committee of management of a club or a member of the committee of management may discriminate against a person on the ground of disability in membership of the club if the club provides association wholly or mainly for people with that specific disability.
- (1C) A club, the committee of management of a club or a member of the committee of management may discriminate against a person on the ground of religious belief or activity in membership of the club if the club provides association wholly or mainly for people with that specific religious belief or activity.
- (1D) A club, the committee of management of a club or a member of the committee of management may discriminate against a person on the ground of political opinion, affiliation or activity in membership of the club if the club provides association wholly or mainly for people with that specific political opinion, affiliation or activity.

- (3) Section 47(3)(a)

omit

- (4) Section 47(3)(b)(i) and (ii) and (4)(d)

omit (all references)

men and women

insert

different sexes

- (5) Section 47(4)

omit

shall

insert

must

22 Section 49 amended (Exemptions)

Section 49(1)(a)

omit

Occupational Superannuation Standards Act 1987 of the Commonwealth

insert

Superannuation Industry (Supervision) Act 1993 (Cth)

23 Part 4, Division 8 inserted

After section 49

insert

Division 8 Administration of laws and government programs

49A Discrimination in administration of laws and government programs

- (1) A person who performs any function or exercises any power under a law of the Territory for the purposes of a Territory Government program or has any other responsibility for the administration of a law of the Territory or the conduct of a Territory Government program must not discriminate in:

- (a) the performance of the function; or
 - (b) the exercise of the power; or
 - (c) the carrying out of the responsibility.
- (2) In this section:

Territory Government program means a program conducted by or on behalf of the Territory Government.

24 Section 51 amended (Religious bodies)

Section 51(d)

omit, insert

- (d) an act by a body established for religious purposes if the act:
- (i) is done to conform to the doctrines, tenets, beliefs or teachings of the religion; and
 - (ii) is necessary to avoid offending the religious sensitivities of adherents of the religion.

25 Section 54 replaced (Pregnancy and childbirth)

Section 54

omit, insert

54 Pregnancy or childbirth

A person (***person A***) may discriminate against another person (***person B***) by reason only of the fact that person A grants rights and privileges to a person (***person C***) in connection with person C's pregnancy or childbirth.

26 Section 56 amended (Sport)

- (1) Section 56(1)(a)

omit

either men or women

insert

persons of a particular sex

- (2) Section 56(1)(d)

omit

impairment

insert

disability

27 Section 60 replaced

Section 60

repeal, insert

60 Who may complain

Subject to this Act, the following may make a complaint to the Commissioner:

- (a) a person aggrieved by prohibited conduct;
- (b) a person, authorised in writing by the Commissioner, on behalf of a person referred to in paragraph (a);
- (c) an organisation or body (whether or not incorporated), on behalf of a group of individuals, whether named or not.

28 Section 62A inserted

After section 62

insert

62A Representative complaints

- (1) A representative complaint must allege systemic discrimination against more than one individual resulting from the behaviour, practice, policy or program of one or more organisations.
- (2) A representative complaint is not required to:
 - (a) name the individuals who are affected by the systemic discrimination; or
 - (b) identify the number of individuals affected by the systemic discrimination.
- (3) The complainant in a representative complaint is not required to obtain the consent of the individuals it alleges are affected by the systemic discrimination.

(4) Despite sections 66D and 66E, the making of a representative complaint does not preclude an individual who the complaint alleges is affected by the systemic discrimination from making a complaint.

(5) In this section:

organisation includes an Agency.

29 Section 64 amended (Form of complaint)

(1) Section 64(1)

omit

shall

insert

must

(2) Section 64(1)(d)

omit

by post

insert

or transmitted

(3) After section 64(1)

insert

(1A) A representative complaint must establish the credentials of the complainant in representing the individuals affected by the systemic discrimination.

(4) After section 64(2)

insert

(3) The Commissioner may, based on information provided in the complaint or by the complainant, amend the complaint to ensure:

(a) any alleged contravention of this Act is identified in a concise manner; or

(b) efficient resolution of the complaint is facilitated.

30 Section 65 amended (Time limit for making complaint)

- (1) Section 65(1)
omit
subsection (2), a complaint shall
insert
subsections (1A) and (2), a complaint must
- (2) After section 65(1)
insert
- (1A) Subject to subsection (2), a representative complaint must be made not later than 24 months after an instance of the systemic discrimination alleged in the complaint occurred.
- (3) Section 65(2), after "subsection (1)"
insert
or (1A)

31 Sections 66 and 66A replaced

Sections 66 and 66A

repeal, insert

66 Commissioner to accept or decline complaint

- (1) The Commissioner must, after assessing a complaint, decide to accept or decline the complaint:
- (a) for a representative complaint – no later than 90 days after receiving it; or
- (b) otherwise – no later than 60 days after receiving it.
- (2) The Commissioner must notify the complainant of the Commissioner's decision under subsection (1) as soon as practicable after making it.

66A Stay of individual complaint

The Commissioner may stay an individual complaint that relates to the same conduct alleged by a representative complaint until the representative complaint is resolved.

32 Section 66D amended (Complaint declined)

- (1) Section 66D, before "If"

insert

- (1)

- (2) Section 66D, at the end

insert

- (2) Despite subsection (1), the Commissioner may give consent to a representative complaint declined under section 66 to be made again, if the Commissioner considers it appropriate to do so.

33 Section 66F amended (Complaint declined – similar complaints prohibited)

- (1) Section 66F(1), after "66E"

insert

or 69

- (2) Section 66F(2)

omit

evaluating the complaint

insert

evaluating a complaint to which Division 4 applies

34 Section 68 amended (Commissioner may decline or stay a complaint dealt with elsewhere)

Section 68(1)

omit, insert

- (1) The Commissioner may decline or stay a complaint at any time if, in relation to the prohibited conduct alleged in the complaint:
- (a) there is a concurrent proceeding, or has been a finding, in a court, tribunal or any other public complaints body; or
 - (b) the Commissioner reasonably considers the prohibited conduct has been adequately dealt with by another entity.

35 Section 69 inserted

After section 68

insert

69 Commissioner may decline representative complaint

The Commissioner may decline a representative complaint if the Commissioner considers it appropriate to do so.

36 Section 71 amended (Withdrawal of complaint)

Section 71(3), after "4"

insert

or investigating the complaint if permitted by Division 4B

37 Section 81 amended (Conclusion of conciliation)

(1) Section 81(3), after "a complaint"

insert

other than a representative complaint

(2) Section 81(6), after "evaluated"

insert

or investigated

38 Section 82A inserted

Before section 83, in Part 6, Division 4

insert

82A Application

This Division does not apply to a representative complaint.

39 Section 83 amended (Commissioner must evaluate complaint)

After section 83(2)

insert

(3) Without limiting subsection (2), the Commissioner may adopt any findings or decisions of a court or tribunal that may be relevant to the complaint.

40 Section 84 amended (Documents or information required to be produced)

(1) Section 84, heading, at the end

insert

or retained

(2) After section 84(2)

insert

(2A) Without limiting subsections (1) or (2), in evaluating a complaint the Commissioner may, in writing, order a person to retain a document or class of document specified in the order for a period, of no longer than 6 months, specified in the order.

(3) Section 84(3), after "subsection (1)"

insert

or (2A)

41 Section 85A inserted

Before section 86, in Part 6, Division 4A

insert

85A Application

This Division does not apply to a representative complaint.

42 Section 87B inserted

After section 87A

insert

87B Parties to a complaint

Despite section 86(3) and without limiting section 128 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, the Tribunal may add, substitute or remove a party to a complaint.

43 Part 6, Division 4B inserted

After section 89

insert

Division 4B Investigation of representative complaints

89A Commissioner must investigate complaint

- (1) The Commissioner must investigate a representative complaint if the Commissioner considers investigation of the complaint is appropriate.
- (2) The Commissioner may conduct the investigation in any way the Commissioner considers appropriate.

89B Documents or information required to be produced

- (1) In investigating the complaint, the Commissioner may, in writing, order a person to give the Commissioner:
 - (a) a document or class of documents as specified in the order; or
 - (b) information in the possession of the person relevant to the proceedings as specified in the order.
- (2) If a document or information is given to the Commissioner under subsection (1), the Commissioner:
 - (a) may take possession of, and copy or take extracts from, the document or information; and
 - (b) may give copies or extracts from the document or information to the complainant or respondent; and
 - (c) may retain possession of the document or information for such period as is reasonably necessary; and
 - (d) may allow a person who, if the document were not in the possession of the Commissioner, would be entitled to inspect it, to inspect the document at all reasonable times.
- (3) Without limiting subsections (1) or (2), in investigating a complaint the Commissioner may, in writing, order a person to retain a document or class of document specified in the order for a period, of no longer than 6 months, specified in the order.
- (4) A person commits an offence if the person:
 - (a) is the subject of an order under subsection (1) or (3); and
 - (b) fails to comply with the order.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (5) Strict liability applies to subsection (4)(a).
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

89C Witnesses

- (1) In investigating the complaint, the Commissioner may order a person:
 - (a) to take an oath before giving evidence before the Commissioner; and
 - (b) to answer a question asked by the Commissioner.
- (2) A person commits an offence if the person:
 - (a) is the subject of an order of the Commissioner under subsection (1); and
 - (b) fails to comply with the order.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

89D Report of investigation

- (1) After investigating a representative complaint, the Commissioner may produce a report of the investigation.
- (2) The report may include:
 - (a) an opinion of the Commissioner about whether systemic discrimination has occurred;
 - (b) recommendations to address the systemic discrimination.

Examples for subsection (2)(b)

A recommendation that an organisation review a policy or program, implement specific policies or programs to eliminate discrimination, conduct specific anti-discrimination training or make a public announcement to explain actions the organisation proposes to take.

- (3) The Commissioner may publish a report of an investigation into a representative complaint.
- (4) Before publishing a report, the Commissioner must give any person or organisation adversely mentioned in the report a reasonable

opportunity to respond to the report.

- (5) The Minister must table a published report of an investigation into a representative complaint against an Agency or another public sector body in the Legislative Assembly within 6 sitting days after publication.
- (6) A report of an investigation may be:
 - (a) referred to in making an individual complaint; or
 - (b) taken into account by the Tribunal in relation to an individual complaint referred to the Tribunal.

89E Guidelines for investigations of representative complaints

- (1) The Commissioner may issue guidelines in relation to investigations of representative complaints.
- (2) Without limiting subsection (1), a guideline may provide for the factors the Commissioner should consider in deciding whether to accept or decline a representative complaint.

44 Sections 110 and 110 replaced

Sections 110 and 110A

repeal, insert

110 Obstruction

- (1) A person commits an offence if:
 - (a) the person intentionally obstructs another person; and
 - (b) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) In this section:

obstruct includes hinder and resist.

110A Misleading information

- (1) A person commits an offence if:
 - (a) the person intentionally gives information to another person; and

- (b) the information is misleading and the person has knowledge of that circumstance; and
- (c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

(2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the document contains misleading information and the person has knowledge of that circumstance; and
- (c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:

- (a) draws the misleading aspect of the information or document to the person's attention; and
- (b) to the extent to which the defendant can reasonably do so – gives the person the information necessary to remedy the misleading aspect of the information or document.

Note for subsection (3)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

45 Section 114 amended (Self incrimination)

Section 114, after "85(2)"

insert

or 89C(2)

46 Section 115 amended (Service of document)

After section 115(b)

insert

(ba) by sending it to the person's email address; or

47 Part 10 inserted

After section 120

insert

Part 10 Transitional matters for Anti-Discrimination Amendment Act 2022

121 Definitions

In this Part:

amending Act means the *Anti-Discrimination Amendment Act 2022*.

commencement means the commencement of section 3 of the amending Act.

122 Complaint made before commencement

This Act, as in force before the commencement, continues to apply in relation to a complaint that was made before the commencement.

123 Application of amendments

- (1) The amendments made by the amending Act do not apply to prohibited conduct which took place before the commencement.
- (2) Subsection (1) does not prevent evidence of conduct which took place or practices which were used before the commencement being taken into account in determining whether a person has been subjected to prohibited conduct.

48 Act further amended

The Schedule has effect.

Part 3 Amendment of Anti-Discrimination Regulations 1994

49 Regulations amended

This Part amends the *Anti-Discrimination Regulations 1994*.

50 Regulation 1A inserted

After regulation 1

insert

1A Approved training organisations and accreditation bodies for assistance animals

For section 4A(2), definition ***trained or accredited***, of the Act, the following organisations and bodies are prescribed:

- (a) The Royal Society for the Blind of SA Inc ABN 37 680 837 839;
- (b) Guide Dogs SA/NT ABN 91 183 168 093;
- (c) Lions Hearing Dogs Inc ABN 37 976 454 009;
- (d) Assistance Dogs Australia Ltd ABN 90 074 746 160;
- (e) Righteous Pups Australia Inc ABN 80 473 459 921;
- (f) Vision Australia Ltd ABN 67 108 391 831;
- (g) Guide Dogs WA ABN 11 157 291 960;
- (h) Guide Dogs Queensland Ltd 89 009 739 664;
- (i) Guide Dogs NSW/ACT ABN 52 000 399 744;
- (j) Guide Dogs Victoria ABN 68 004 621 461;
- (k) Guide Dogs Tasmania ABN 11 157 291 960;
- (l) Dog and Cat Management Board ABN 48 100 971 189.

Part 4 Repeal**51 Repeal of Act**

This Act is repealed on the day after it commences.

Schedule Act further amended

section 48

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 35(1)(a) and 55	impairment	disability
section 39	an impairment	a disability
section 39(d)	his or her	the person's own
sections 53 and 67, headings	&c.	etc
section 66E, example, paragraph (a)	<i>complaint.</i>	<i>complaint;</i>
section 105(1)(a) and (b)	his or her	the person's
section 105(2)	he or she	the person
