

EQUAL OPPORTUNITY AMENDMENT BILL 2009

EXPLANATORY MEMORANDUM (E46)

(Introduced by the Hon. Michelle Roberts MLA)

This Bill will amend the *Equal Opportunity Act 1984* to prohibit discrimination against mothers breast feeding in a public place and for related purposes.

Clause 1 Short title

Provides for this Act to be cited as the *Equal Opportunity Amendment Bill 2009*.

Clause 2 Commencement

Provides for this Act to come into operation -

- sections 1 and 2 upon Royal Assent;
- rest of the Act on a day fixed by proclamation.

Clause 3 The Act amended

Provides that the amendments in this part are to the *Equal Opportunity Act 1984*

Clause 4 Heading to Part II amended

Provides for the heading to part II to be amended by deletion of “or pregnancy” and the insertion of “pregnancy or breast feeding”.

Clause 5 Section 10A inserted

Provides for the insertion of section 10A into the principal Act.

Section 10A makes it an offence to discriminate on the ground of breastfeeding.

Section 10A (1) provides that a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of breast feeding if on the ground of (i) the aggrieved person is breast feeding or bottle feeding an infant or proposing to do so or (ii) a characteristic that appertains generally to persons are breast feeding or bottle feeding or (iii) a characteristic that is generally imputed to persons who are breast feeding or bottle feeding; The discriminator treats the aggrieved person less favourably than the discriminator would treat a person who was not breast feeding or bottle feeding.

Section 10A (2) provides that the **discriminator** discriminates against the **aggrieved** person on the ground of breast feeding or bottle feeding if the discriminator requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of people who are not breast feeding or bottle feeding comply or are able to comply, which is not reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply.

Clause 6 Section 11 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 11(1)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 11(2)

Clause 7 Section 12 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 12(1)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 12(2)

Clause 8 Section 13 amended

Provides for breast feeding to be included as a ground of discrimination in Section 13(1)

Clause 9 Section 14 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 14(1)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 12(2)
- (3) Provides for breast feeding to be included as a ground of discrimination in Section 12(3)

Clause 10 Section 15 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 15(2)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 15(3)

Clause 11 Section 16 amended

Provides for breast feeding to be included as a ground of discrimination in Section 16

Clause 12 Section 17 amended

Provides for breast feeding to be included as a ground of discrimination in Section 17

Clause 13 Section 18 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 18(1)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 18(2)

Clause 14 Section 19 amended

Provides for breast feeding to be included as a ground of discrimination in Section 19

Clause 15 Section 20 amended

Provides for breast feeding to be included as a ground of discrimination in Section 20

Clause 16 Section 21 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 21
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 21(2)

Clause 17 Section 21A amended

Provides for breast feeding to be included as a ground of discrimination in Section 21A (1)

Clause 18 Section 22 amended

- (1) Provides for breast feeding to be included as a ground of discrimination in Section 22(1)
- (2) Provides for breast feeding to be included as a ground of discrimination in Section 22(2)

Clause 19 Section 23 amended

Provides for breast feeding to be included as a ground of discrimination in Section 23(1)

Clause 20 Section 28 amended

Provides that nothing in Division 2 or 3 renders it unlawful for a person to discriminate against a man on the ground of his sex by reason only of the fact that the first-mentioned person grants a woman rights or privileges in connection with breast feeding or bottle feeding.

Clause 21 Section 31 amended

Provides that nothing in Division 2 or 3 renders it unlawful to do an act a purpose of which is to ensure persons who are breast feeding or bottle feeding have equal opportunities with other persons in circumstances in relation to which provision is made by this Act or to provide for persons who are breast feeding or bottle feeding access to facilities, services or opportunities to meet their special needs in relation to employment, education, training or welfare.