

ARTHUR ROBINSON & HEDDERWICKE
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

INDUSTRIAL RELATIONS REFORM BILL 1993

FURTHER SUPPLEMENTARY EXPLANATORY MEMORANDUM

Additional amendments to be moved on behalf of the Government

(Circulated on the authority of the Minister for Industrial Relations,
the Hon Laurie Brereton MP)



INDUSTRIAL RELATIONS REFORM BILL 1993

ADDITIONAL AMENDMENTS TO BE MOVED ON BEHALF OF THE GOVERNMENT

OUTLINE

These amendments modify anti-discrimination provisions of the bill, to provide two exceptions:

- . where the discrimination is based on the inherent requirements of a particular job; or
- . where the discrimination relates to the employment of staff in a religious institution and has been applied in good faith to avoid injury to the religious susceptibilities of members of the religion concerned.

These amendments duplicate the exceptions that are already set out in the definition of "discrimination" in the *Human Rights and equal Opportunity Commission Act 1986* (i.e. that Act does not apply to discrimination when either of these two exceptions is satisfied).

The first exception is already in the bill, but only for the restriction on termination of employment [proposed subsection 170DF(2), explained at page 29 of the Explanatory Memorandum]. These additional amendments will add the same exception to the anti-discrimination provisions concerning the Commission's role in certifying or approving agreements.

NOTES ON ADDITIONAL AMENDMENTS

Additional Amendment No 1

This amendment will add a new subsection - 170DF(3) - to the bill. The new subsection will provide an exception to the anti-discrimination requirement that employment not be terminated for any of a list of reasons. This requirement will not apply when employment is terminated to avoid injury to religious susceptibilities, if the employment is as a member of staff of an institution conducted in accordance with the beliefs of a particular religion or creed.

Additional Amendment No 2

This amendment will add a new subsection - 170MD(5A) - to the bill.

The proposed new subsection will qualify the operation of proposed subsection 170MD(5).

Proposed subsection 170MD(5) provides that the Commission must refuse to certify an agreement if it thinks that the agreement discriminates against an employee on the basis of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, or social origin.

The new subsection (5A) will provide that discrimination in an agreement is not to be taken to offend subsection (5) if:

- . the discrimination is based on the inherent requirements of a particular job; or
- . the discrimination relates to employment in a religious institution and has been applied in good faith to avoid injury to the religious susceptibilities of members of the religion concerned.

Additional Amendment No 3

This amendment will add a new subsection - 170ND(10) - to the bill.

The proposed new subsection will qualify the operation of proposed subsection 170ND(9).

Proposed subsection 170ND(9) provides that the Commission must refuse to approve the implementation of an enterprise flexibility agreement if it thinks that the agreement discriminates against an employee on the basis of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, or social origin.

The new subsection (10) will provide that discrimination in an agreement is not to be taken to offend subsection (9) if:

- . the discrimination is based on the inherent requirements of a particular job; or
- . the discrimination relates to employment in a religious institution and has been applied in good faith to avoid injury to the religious susceptibilities of members of the religion concerned.