



Sex Discrimination Amendment (Pregnancy and Work) Act 2003

No. 103, 2003

**An Act to amend the *Sex Discrimination Act 1984*,
and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

| | | |
|---|--------------------|----------|
| 1 | Short title | 1 |
| 2 | Commencement | 2 |
| 3 | Schedule(s) | 2 |
| Schedule 1—Sex Discrimination Act 1984 | | 3 |



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No. 103, 2003

An Act to amend the *Sex Discrimination Act 1984*, and for related purposes

[Assented to 15 October 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Sex Discrimination Amendment
(Pregnancy and Work) Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Commencement information | | |
|---|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent | 15 October 2003 |
| 2. Schedule 1 | The 28th day after the day on which this Act receives the Royal Assent | 12 November 2003 |

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Sex Discrimination Act 1984

1 After subsection 5(1)

Insert:

- (1A) To avoid doubt, breastfeeding (including the act of expressing milk) is a characteristic that appertains generally to women.

2 Subsection 27(1)

Repeal the subsection, substitute:

- (1) It is unlawful for a person (the *first person*) to request or require another person (the *other person*) to provide information (whether by way of completing a form or otherwise) if:
- (a) the information is requested or required in connection with, or for the purposes of, the first person doing a particular act; and
 - (b) under Division 1 or this Division, it would be unlawful in particular circumstances for the first person, in doing that act, to discriminate against the other person on the ground of the other person's sex, marital status, pregnancy or potential pregnancy; and
 - (c) persons:
 - (i) of the opposite sex; or
 - (ii) of a different marital status; or
 - (iii) who are not pregnant or potentially pregnant;as the case requires, would not be requested or required to provide the information in circumstances that are the same or not materially different.

Example: Under section 14 of Division 1, it is unlawful to determine not to offer employment to a woman because she is pregnant or might become pregnant. Under this section, it is therefore also unlawful to ask a woman during a job interview whether she is pregnant or intends to become pregnant if that information is requested in connection with determining whether to offer her employment.

Note: The heading to section 27 is replaced by the heading “**Requests for information**”.

3 At the end of subsection 27(2)

Add:

Note: Information obtained under this subsection may be used provided the use is not for the purpose of a discriminatory act that is unlawful under any other section of this Act. For example, an employer may use such information for a purpose connected with occupational health and safety, but only if doing so does not amount to unlawful discrimination.

*[Minister's second reading speech made in—
House of Representatives on 14 February 2002
Senate on 3 March 2003]*

(15/02)_____