

2002

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Sex Discrimination Amendment
(Pregnancy and Work) Bill 2002**

No. , 2002

(Attorney-General)

**A Bill for an Act to amend the *Sex Discrimination
Act 1984*, and for related purposes**

Contents

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

1 **A Bill for an Act to amend the *Sex Discrimination***
2 ***Act 1984, and for related purposes***

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Sex Discrimination Amendment*
6 *(Pregnancy and Work) Act 2002.*

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, on the day or at the
10 time specified in column 2 of the table.
11

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:

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