

South Australia

Equal Opportunity (Domestic Abuse) Amendment Act 2023

An Act to amend the *Equal Opportunity Act 1984*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Equal Opportunity (Domestic Abuse) Amendment Act 2023*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Equal Opportunity Act 1984*

3—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *disability* insert:

domestic abuse has the same meaning as in the *Intervention Orders (Prevention of Abuse) Act 2009*;

4—Amendment of section 85T—Criteria for establishing discrimination on other grounds

(1) Section 85T(1), definition of *discriminate*—after paragraph (f) insert:

; or

(g) discriminate on the ground of being, or having been, subjected to domestic abuse,

(2) Section 85T—after subsection (7) insert:

(8) For the purposes of this Act, a person discriminates on the ground of being, or having been, subjected to domestic abuse—

(a) if the person treats another unfavourably because the other is, or has been, subjected to domestic abuse; or

(b) if the person treats another unfavourably because the other does not comply, or is not able to comply, with a particular requirement and—

(i) the nature of the requirement is such that a substantially higher proportion of persons who are not, or who have not been, subjected to domestic abuse comply, or are able to comply, with the requirement than those who are, or who have been, subjected to domestic abuse; and

(ii) the requirement is not reasonable in the circumstances of the case; or

(c) if the person treats another unfavourably on the basis of a characteristic that appertains generally to persons who are, or who have been, subjected to domestic abuse, or on the basis of a presumed characteristic that is generally imputed to persons who are, or who have been, subjected to domestic abuse; or

(d) if the person treats another (not being the perpetrator of domestic abuse) unfavourably because of an attribute of or a circumstance affecting a relative or associate of the other, being an attribute or circumstance described in the preceding paragraphs.

5—Amendment of section 85U—Application of Division

Section 85U—delete "or religious appearance or dress" and substitute:

, religious appearance or dress or being, or having been, subjected to domestic abuse

6—Amendment of section 85ZA—Application of Division

Section 85ZA—delete "or caring responsibilities" and substitute:

, caring responsibilities or being, or having been, subjected to domestic abuse

7—Amendment of section 85ZB—Discrimination by associations

Section 85ZB(2)—after paragraph (c) insert:

or

- (d) for persons who are, or who have been, subjected to domestic abuse or domestic abuse of a particular kind,

8—Amendment of section 85ZD—Application of Division

Section 85ZD—delete "or religious appearance or dress" and substitute:

, religious appearance or dress or being, or having been, subjected to domestic abuse

9—Amendment of section 85ZF—Discrimination by person disposing of interest in land

Section 85ZF(1)—delete "or caring responsibilities" and substitute:

, caring responsibilities or being, or having been, subjected to domestic abuse

10—Amendment of section 85ZG—Discrimination in provision of goods and services

Section 85ZG(1)—delete "or caring responsibilities" and substitute:

, caring responsibilities or being, or having been, subjected to domestic abuse

11—Amendment of section 85ZH—Discrimination in relation to accommodation

- (1) Section 85ZH(1)—delete "or caring responsibilities" and substitute:

, caring responsibilities or being, or having been, subjected to domestic abuse

- (2) Section 85ZH—after subsection (5) insert:

- (6) This section does not apply to discrimination on the ground of being, or having been, subjected to domestic abuse in relation to the provision of accommodation by an organisation that does not seek to secure a pecuniary profit for its members, if that accommodation is provided only for persons who are, or who have been, subjected to domestic abuse or domestic abuse of a particular kind.

12—Amendment of section 85ZI—Charities

Section 85ZI(a)—after subparagraph (iv) insert:

- (v) persons who are, or who have been, subjected to domestic abuse; or

13—Amendment of section 85ZK—Measures intended to achieve equality

- (1) Section 85ZK—delete "or persons with caring responsibilities" and substitute:

persons with caring responsibilities, or persons who are, or who have been, subjected to domestic abuse

- (2) Section 85ZK—delete "or persons without caring responsibilities" and substitute:

persons without caring responsibilities, or persons who are not, or who have not been, subjected to domestic abuse

14—Insertion of section 85ZO

After section 85ZN insert:

85ZO—Exemption relating to domestic abuse

This Part does not apply to discrimination on the ground of being, or having been, subjected to domestic abuse in relation to the employment or engagement of a person to perform duties involving the care of a child at a place where the child resides.

15—Amendment of section 95A—Commissioner may decline complaints in certain circumstances

- (1) Section 95A(1)—after paragraph (c) insert:

or

- (d) the complaint alleges discrimination on the ground of being, or having been, subjected to domestic abuse and the complainant fails to provide sufficient evidence that they are, or have been, subjected to domestic abuse.

- (2) Section 95A—after subsection (3) insert:

- (4) For the purposes of subsection (1)(d), a reference to *sufficient evidence* provided by a complainant is a reference to—

- (a) evidence that an intervention order has been issued under the *Intervention Orders (Prevention of Abuse) Act 2009* to protect the complainant from domestic abuse; or

- (b) evidence that the complainant has sought or received assistance in relation to domestic abuse from—

- (i) a registered health practitioner; or

- (ii) a charitable organisation; or

- (iii) a person or body of a class prescribed by the regulations; or

(c) evidence that otherwise satisfies the Commissioner that the complainant is, or has been, subjected to domestic abuse.

(5) In this section—

charitable organisation means an organisation, society, institution or body carried on for a religious, educational, benevolent or charitable purpose, provided that it is not also carried on for the purpose of securing pecuniary benefit for its members.