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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

COVID-19 VACCINATION STATUS (PREVENTION OF DISCRIMINATION) BILL 2021

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Hanson)

COVID-19 VACCINATION STATUS (PREVENTION OF DISCRIMINATION) BILL 2021

OUTLINE

The COVID-19 Vaccination Status (Prevention of Discrimination) Bill 2021 (the bill) prohibits the Commonwealth, States and Territories and other government and non-government entities from discriminating on the basis of whether a person has had a COVID vaccination, in the provision of goods, services and facilities and also in employment, education, accommodation and sport.

The bill prevents any interference of free movement between and within States and Territories of the country.

The bill supports the inalienable rights and freedoms of all Australians, acts to minimise interference in our daily lives and aims to reduce the interference imposed by unnecessary, restrictive bureaucratic red tape.

NOTES ON CLAUSES

Part 1 - Preliminary

Clause 1: Short Title

1. Clause 1 is a formal provision specifying the short title of the Bill.

Clause 2: Commencement

2. This clause states that the whole of the Act will commence on the day after it receives the Royal Assent.

Clause 3: Definitions

3. This clause defines terms used in the Act.

Clause 4: Meaning of discriminates

4. This clause defines what may constitutes discrimination, which includes requesting or requiring a person to provide proof of having received a COVID-19 vaccination or unfavourable treatment on the basis of whether a person has not received a COVID-19 vaccination. Discrimination may occur on multiple bases.

Clause 5: Binding the Crown

5. This clause states that the Act binds the Crown in each of its capacities.

Clause 6: Extension to external Territories

6. This clause provides that the Act applies to Australia's external territories.

Part 2 – Prohibition of discrimination on basis of vaccination

Clause 7: Commonwealth must not discriminate on basis of COVID-19 vaccination

7. **This clause prohibits the Commonwealth from discriminating on the basis of whether a person has received a COVID-19 vaccination. It sets out that the Commonwealth cannot enter into an agreement with, fund, or grant a licence, permit, authorisation authority or other permission to a State, Territory, business or voluntary body if the State, Territory, business or voluntary body is reasonably likely to discriminate against a person on the basis of whether the person has received a COVID-19 vaccination.**

8. **The clause also prohibits the Commonwealth from entering into agreements with a State, Territory, businesses or voluntary body, or granting a licence, permit, authorisation authority or other permission on the condition that they require persons to receive a COVID-19 vaccination.**

9. This clause applies also to an authority of the Commonwealth, as defined in clause 3.

Clause 8: States must not discriminate on basis of COVID-19 vaccination

10. **This clause prohibits States and State authorities from discrimination on the basis of whether a person has received a COVID-19 vaccination.**

Clause 9: Territories must not discriminate on basis of COVID-19 vaccination

11. **This clause prohibits Territories and Territory authorities from discrimination on the basis of whether a person has received a COVID-19 vaccination.**

Clause 10: Other entities

12. **This clause prohibits discrimination on the basis of whether a person has received a COVID-19 vaccination in relation to employment, business, including serving or providing goods by businesses or giving access to business premises, and voluntary bodies.**

Clause 11: This part overrides other laws

13. **This clause clarifies that the Act overrides any other law of the Commonwealth, State or Territory which requires or permits discrimination on the basis that a person is COVID-19 vaccinated.**

Part 3 – Miscellaneous

Clause 12: Constitutional basis of this Act

14. This clause sets out the constitutional basis for the Act.

Clause 13: Additional operation of section 8 and 10

15. This clause provides that clauses 8 and 10 also have effect if a reference to discrimination in clause 8 or clause 10 was confined to discrimination undertaken in relation to trade and commerce, communications, insurance, corporations or Territories.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

COVID-19 Vaccination Status (Prevention of Discrimination) Bill 2021

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The bill prohibits the Commonwealth, States and Territories and other government and non-government entities from discriminating on the basis of whether a person has had a COVID-19 vaccination, in the provision of goods, services and facilities and also in relation to employment, education, accommodation and sport.

The bill prevents any interference of free movement between and within States and Territories of the country.

The bill supports the inalienable rights and freedoms of all Australians, acts to minimise interference in our daily lives and aims to reduce the interference imposed by unnecessary, restrictive bureaucratic red tape.

As such it acts to ensure human rights in relation to discrimination on the basis of COVID-19 vaccination status.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms in a negative manner. It has a positive impact with regard to human rights in that it ensures that discrimination cannot occur because a person has had, or not had, medical intervention to prevent COVID-19 infection.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

Senator Pauline Hanson