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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL
2004**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
the Honourable Philip Ruddock MP)

SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004

OUTLINE

The purpose of the Bill is to facilitate measures to address the problem of imbalance in the number of male and female school teachers, and the effect of that imbalance on the education of male school students in particular.

The existing provisions of the *Sex Discrimination Act 1984* which prohibit discrimination on the basis of sex, including in education, do not allow positive discrimination to redress the gender imbalance in the teaching profession, particularly the shortage of males in pre-school and primary school teaching.

This Bill would amend the *Sex Discrimination Act 1984* to permit the provision of scholarships to persons of one sex in relation to courses in school teaching in Australia to redress gender imbalance in teaching.

Financial impact statement

The amendments made by the Sex Discrimination Amendment (Teaching Profession) Bill 2004 have no significant financial impact.

NOTES ON CLAUSES

Clause 1: Short title

This clause provides that the Act will be called the *Sex Discrimination Amendment (Teaching Profession) Act 2004*.

Clause 2: Commencement

This clause provides that the Act will commence on the day on which it receives the Royal Assent.

Clause 3: Schedule(s)

This clause provides that each Act that is specified in a Schedule is amended as set out in that Schedule.

Schedule 1 - Amendments

Sex Discrimination Act 1984

Item 1 of Schedule 1 inserts a new section 38A in the *Sex Discrimination Act 1984*.

Divisions 1 and 2 of Part 2 of the *Sex Discrimination Act 1984* contain prohibitions on discrimination in work and other areas, including education. Division 4 of Part 2 of the Act contains exemptions.

The purpose of proposed section 38A is to permit measures for achieving a gender balance in the teaching profession. Section 38A would establish that a person may offer scholarships for persons of a particular gender in respect of participation in a teaching course. Section 38A would apply only if the purpose is to redress a gender imbalance in teaching, that is, an imbalance in the ratio of male to female teachers in schools in Australia. Section 38A would permit region or sector specific initiatives.

The word ‘person’ is defined in section 22 of the *Acts Interpretation Act 1901* as including a natural person, a body corporate and a body politic.

A scholarship is defined in subsection 38A(3) to include assistance or support that is similar to a scholarship. This definition is intended to avoid an interpretation of ‘scholarship’ which might artificially narrow the scope of the provision.

A teaching course is defined in subsection 38A(3) to mean a course of study that leads to a qualification for teaching students at schools in Australia.

This means that educational authorities and others can implement strategies for encouraging male teachers into the profession in a manner consistent with the *Sex Discrimination Act 1984*.

Section 38A is in gender neutral terms and would allow discrimination in favour of females if a gender imbalance in favour of males were to emerge generally or in a region or sector.