

1. Commonwealth

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Age Discrimination Act 2004</p> | <p>Cth</p> | <p>25 (Work)</p> | <p>racial</p> <p>(a) in the arrangements made for the purpose of determining who should be offered work; or</p> <p>(b) in determining who should be offered work; or</p> <p>(c) in payment, or offer of payment, of remuneration for work.</p> |
| | | | <p>26 (Education)</p> | <p>Sub-section 1 states that it is unlawful for an educational authority to discriminate against a person on the ground of the person's age by refusing or failing to accept the person's application for admission as a student; or in the terms or conditions on which it is prepared to admit the person as a student.</p> <p>Sub-section 2 states that it is unlawful for an educational authority to discriminate against a student on the ground of the student's age:</p> <p>(a) by denying the student access, or limiting the student's access, to any benefit provided by the educational authority; or</p> <p>(b) by expelling the student; or</p> <p>(c) by subjecting the student to any other detriment.</p> <p>Sub-section 3 states that this clause does not make it unlawful</p> |

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| | | | | to discriminate against a person on the ground of the person's age in respect of admission to an educational institution established wholly or primarily for students above a particular age, if the person is not above that age. |
| | | | 27 (Access to premises) | <p>It is unlawful for a person to discriminate against another person on the ground of the other person's age:</p> <p>(a) by refusing to allow the other person access to, or the use of, any premises that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not); or</p> <p>(b) by refusing to allow the other person the use of any facilities in such premises that the public or a section of the public is entitled or allowed to use (whether for payment or not).</p> |
| | | | 28 (Goods, services and facilities) | It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's age. |
| | | | 29 (Accommodation) | It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the other person's age by refusing the other person's application for accommodation, the terms or conditions on which the accommodation is offered to the other person; or by denying or limiting access to accommodation. |
| | | | 30 (Land) | It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of the other person's age by refusing or failing to dispose of an estate or interest in land to the other person; or in the terms or |

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| | | | | conditions on which an estate or interest in land is offered to the other person (unless it is by will or by way of gift). |
| | | | 33-43 (General Exemptions) | The Act states that it is not unlawful for a person to discriminate against another person, on the ground of the other person's age, by an act that is consistent with the purposes of the Act. Exemptions include: positive discrimination; charitable benefits; tenets of religious bodies; admission and benefits of voluntary bodies; superannuation and insurance policies; direct compliance with laws and orders (including taxation laws); pension allowances and benefits; Commonwealth employment programs; health; migration and citizenship. |
| | Australian Human Rights Commission Act 1986 | Cth | 46MB (Functions of the Commission to be performed by National Children's Commissioner) | <p>(1) The following functions are conferred on the Commission:</p> <p>(a) to submit a report to the Minister that complies with subsection (3) as soon as practicable after 30 June in each year; and</p> <p>(b) to promote discussion and awareness of matters relating to the human rights of children in Australia; and</p> <p>(c) to undertake research, or educational or other programs, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and exercise of human rights by children in Australia; and</p> <p>(d) to examine existing and proposed Commonwealth enactments for the purpose of ascertaining whether they recognise and protect the human rights of children in Australia, and to report to the Minister the results of any such</p> |

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| | | | | <p>examination.</p> <p>(2) The functions of the Commission under this section are to be performed by the National Children's Commissioner on behalf of the Commission.</p> <p>(3) A report under paragraph (1)(a):</p> <p>(a) must deal with such matters, relating to the enjoyment and exercise of human rights by children in Australia, as the National Children's Commissioner considers appropriate; and</p> <p>(b) may include recommendations that the Commissioner considers appropriate as to the action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia.</p> <p>(4) In performing functions under this section, the National Children's Commissioner may give particular attention to children who are at risk or vulnerable.</p> <p>(5) In performing functions under this section, the National Children's Commissioner may consult any of the following:</p> <p>(a) children; and</p> <p>(b) Departments and authorities of the Commonwealth, and of the States and Territories; and</p> <p>(c) non-governmental organisations; and</p> <p>(d) international organisations and agencies; and</p> <p>(e) such other organisations, agencies or persons as the Commissioner considers appropriate.</p> |

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| | | | | <p>(6) In performing functions under this section, the National Children's Commissioner must, as appropriate, have regard to:</p> <p>(a) the Universal Declaration of Human Rights (United Nations General Assembly Resolution A/RES/217(III) A (1948); and</p> <p>(b) the following, as amended and in force for Australia from time to time:</p> <p>(i) the International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40); and</p> <p>(ii) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5); and</p> <p>(iii) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23); and</p> <p>(iv) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9); and</p> <p>(v) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4); and</p> <p>(vi) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); and</p> <p>(c) such other instruments relating to human rights as the</p> |

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| | | | | Commissioner considers relevant. |
| | <p>Human Rights and Equal Opportunity Commission Act 1986</p> | Cth | 11 (Functions of the Commission) | <p>(1) The functions of the Commission are:</p> <p>(a) such functions as are conferred on the Commission by the <i>Racial Discrimination Act 1975</i>, the <i>Sex Discrimination Act 1984</i> or any other enactment; and</p> <p>(b) such functions as are to be performed by the Commission pursuant to an arrangement in force under section 16; and</p> <p>(c) such functions as are expressed to be conferred on the Commission by any State enactment, being functions in relation to which the Minister has made a declaration under section 18; and</p> <p>(d) the functions conferred on the Commission by section 31; and</p> <p>(e) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments, as the case may be, are, or would be, inconsistent with or contrary to any human right, and to report to the Minister the results of any such examination; and</p> <p>(f) to inquire into any act or practice that may be inconsistent with or contrary to any human right, and</p> <p>(i) where the Commission considers it appropriate to do so - to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and</p> <p>(ii) where the Commission is of the opinion that the act or practice is inconsistent with or contrary to any human right,</p> |

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| | | | | <p>and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement to report to the Minister in relation to the inquiry; and</p> <p>(g) to promote an understanding and acceptance, and the public discussion, of human rights in Australia; and</p> <p>(h) to undertake research and educational programs and other programs, on behalf of the Commonwealth, for the purpose of promoting human rights, and to co-ordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth; and</p> <p>(j) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights; and</p> <p>(k) on its own initiative or when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken by Australia in order to comply with the provisions of the Covenant, of the Declarations or of any relevant international instrument; and</p> <p>(m) on its own initiative or when requested by the Minister, to examine any relevant international instrument for the purpose of ascertaining whether there are any inconsistencies between that instrument and the Covenant, the Declarations or any other relevant international instrument, and to report to the Minister the results of any such examination; and</p> <p>(n) to prepare, and to publish in such manner as the</p> |

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| | | | | <p>Commission considers appropriate, guidelines for the avoidance of acts or practices of a kind in respect of which the Commission has a function under paragraph (f); and</p> <p>(o) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve human rights issues; and</p> <p>(p) to do anything incidental or conducive to the performance of any of the preceding functions.</p> <p>(2) The Commission shall not:</p> <p>(a) regard an enactment or proposed enactment as being inconsistent with or contrary to any human right for the purposes of paragraph (1) (e) by reason of a provision of the enactment or proposed enactment that is included solely for the purpose of securing adequate advancement of particular persons or groups of persons in order to enable them to enjoy or exercise human rights equally with other persons; or</p> <p>(b) regard an act or practice as being inconsistent with or contrary to any human right for the purposes of paragraph (1) (f) where the act or practice is done or engaged in solely for the purpose referred to in paragraph (a) of this sub-section.</p> |
| | | | 31 (Functions of the Commission relating to equal opportunity) | <p>The following functions are hereby conferred on the Commission:</p> <p>(a) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments, as the case may be, have, or would have, the effect of</p> |

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| | | | | <p>nullifying or impairing equality of opportunity or treatment in employment or occupation, and to report to the Minister the results of any such examination; and</p> <p>(b) to inquire into any act or practice that may constitute discrimination and:</p> <p>(i) where the Commission considers it appropriate to do so - to endeavour, by conciliation, to effect a settlement of the matters that gave rise to the inquiry; and</p> <p>(ii) where the Commission is of the opinion that the act or practice constitutes discrimination, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect such a settlement - to report to the Minister in relation to the inquiry; and</p> <p>(c) to promote an understanding and acceptance, and the public discussion, of equality of opportunity and treatment in employment and occupation in Australia; and</p> <p>(d) to undertake research and educational programs and other programs, on behalf of the Commonwealth, for the purpose of promoting equality of opportunity and treatment in employment and occupation, and to co-ordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth; and</p> <p>(e) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to equality of opportunity and treatment in employment and occupation;</p> |

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| | | | | <p>and</p> <p>(f) when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken by Australia in order to comply with the provisions of the Convention; and</p> <p>(g) on its own initiative or when requested by the Minister, to examine any relevant international instrument for the purpose of ascertaining whether there are any inconsistencies between that instrument and the Convention, and to report to the Minister the results of any such examination; and</p> <p>(h) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of acts or practices of a kind in respect of which the Commission has a function under paragraph (b); and</p> <p>(j) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve discrimination issues; and</p> <p>(k) to do anything incidental or conducive to the performance of any of the preceding functions.</p> |
| | <p>Racial Discrimination Act 1975</p> | <p>Cth</p> | <p>6 (Discrimination on the ground of marital status)</p> | <p>(1) For the purposes of this Act, a person (in this subsection referred to as the 'discriminator') discriminates against another person (in this subsection referred to as the 'aggrieved person') on the ground of the marital status of the aggrieved person if, by reason of:</p> <p>(a) the marital status of the aggrieved person; or</p> |

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| | | | | <p>(b) a characteristic that appertains generally to persons of the marital status of the aggrieved person; or</p> <p>(c) a characteristic that is generally imputed to persons of the marital status of the aggrieved person;</p> <p>the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person of a different marital status.</p> <p>(2) For the purposes of this Act, a person (the 'discriminator') discriminates against another person (the 'aggrieved person') on the ground of the marital status of the aggrieved person if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons of the same marital status as the aggrieved person.</p> <p>(3) This section has effect subject to sections 7B and 7D.</p> |
| | | | 7 (Discrimination on the ground of pregnancy or potential pregnancy) | <p>(1) For the purposes of this Act, a person (the 'discriminator') discriminates against a woman (the 'aggrieved woman') on the ground of the aggrieved woman's pregnancy or potential pregnancy if, because of:</p> <p>(a) the aggrieved woman's pregnancy or potential pregnancy; or</p> <p>(b) a characteristic that appertains generally to women who are pregnant or potentially pregnant; or</p> <p>(c) a characteristic that is generally imputed to women who are pregnant or potentially pregnant;</p> |

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| | | | | <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not pregnant or potentially pregnant.</p> <p>(2) For the purposes of this Act, a person (the 'discriminator') discriminates against a woman (the 'aggrieved woman') on the ground of the aggrieved woman's pregnancy or potential pregnancy if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging women who are pregnant or potentially pregnant.</p> <p>(3) This section has effect subject to sections 7B and 7D.</p> |
| | | | 10 (Right to equality before the law) | <p>(1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.</p> <p>(2) A reference in subsection (1) to a right includes a reference to a right of a kind referred to in Article 5 of the Convention.</p> <p>(3) Where a law contains a provision that:</p> |

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| | | | | <p>(a) authorizes property owned by an Aboriginal or a Torres Strait Islander to be managed by another person without the consent of the Aboriginal or Torres Strait Islander; or</p> <p>(b) prevents or restricts an Aboriginal or a Torres Strait Islander from terminating the management by another person of property owned by the Aboriginal or Torres Strait Islander; not being a provision that applies to persons generally without regard to their race, colour or national or ethnic origin, that provision shall be deemed to be a provision in relation to which subsection (1) applies and a reference in that subsection to a right includes a reference to a right of a person to manage property owned by the person.</p> |
| | | | <p>18C (offensive behaviour because of race, colour or national or ethnic origin)</p> | <p>(1) It is unlawful for a person to do an act, otherwise than in private, if:</p> <p>(a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and</p> <p>(b) the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.</p> <p>Note: Subsection (1) makes certain acts unlawful. Section 46P of the <i>Australian Human Rights Commission Act 1986</i> allows people to make complaints to the Australian Human Rights Commission about unlawful acts. However, an unlawful act is not necessarily a criminal offence. Section 26 says that this Act does not make it an offence to do an act that is unlawful because of this Part, unless Part IV expressly says that the act is an offence.</p> |

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| | | | | <p>(2) For the purposes of subsection (1), an act is taken not to be done in private if it:</p> <p>(a) causes words, sounds, images or writing to be communicated to the public; or</p> <p>(b) is done in a public place; or</p> <p>(c) is done in the sight or hearing of people who are in a public place.</p> <p>(3) In this section:</p> <p>'public place' includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.</p> |
| | | | <p>20 (Functions of Australian Human Rights Commission)</p> | <p>The following functions are hereby conferred on the Commission:</p> <p>(a) to promote an understanding and acceptance of, and compliance with, this Act; and</p> <p>(b) to develop, conduct and foster research and educational programs and other programs for the purpose of:</p> <p>(i) combating racial discrimination and prejudices that lead to racial discrimination; and</p> <p>(ii) promoting understanding, tolerance and friendship among racial and ethnic groups; and</p> <p>(iii) propagating the purposes and principles of the Convention; and</p> |

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| | | | | <p>(d) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of infringements of Part II or Part IIA; and</p> <p>(e) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve racial discrimination issues; and</p> <p>(f) to inquire into, and make determinations on, matters referred to it by the Minister or the Commissioner.</p> |
| | <p>Sex Discrimination Act 1984</p> | <p>Cth</p> | <p>7A (Discrimination on the ground of family responsibilities)</p> | <p>For the purposes of this Act, an employer discriminates against an employee on the ground of the employee's family responsibilities if:</p> <p>(a) the employer treats the employee less favourably than the employer treats, or would treat, a person without family responsibilities in circumstances that are the same or not materially different; and</p> <p>(b) the less favourable treatment is by reason of:</p> <p>(i) the family responsibilities of the employee; or</p> <p>(ii) a characteristic that appertains generally to persons with family responsibilities; or</p> <p>(iii) a characteristic that is generally imputed to persons with family responsibilities.</p> |
| | | | <p>7AA (Discrimination on the ground of</p> | <p>(1) For the purposes of this Act, a person (the 'discriminator') discriminates against a woman (the 'aggrieved woman') on the ground of the aggrieved woman's</p> |

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| | | | breastfeeding) | <p>breastfeeding if, by reason of:</p> <ul style="list-style-type: none"> (a) the aggrieved woman's breastfeeding; or (b) a characteristic that appertains generally to women who are breastfeeding; or (c) a characteristic that is generally imputed to women who are breastfeeding; <p>the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not breastfeeding.</p> <p>(2) For the purposes of this Act, a person (the 'discriminator') discriminates against a woman (the 'aggrieved woman') on the ground of the aggrieved woman's breastfeeding if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging women who are breastfeeding.</p> |
| | | | 7D (Special measures that are intended to achieve equality) | <p>(1) A person may take special measures for the purpose of achieving substantive equality between:</p> <ul style="list-style-type: none"> (a) men and women; or (b) people of different marital status; or (c) women who are pregnant and people who are not pregnant; or (d) women who are potentially pregnant and people who are |

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| | | | | <p>not potentially pregnant; or</p> <p>(e) women who are breastfeeding and people who are not breastfeeding; or</p> <p>(f) people with family responsibilities and people without family responsibilities.</p> <p>(2) A person does not discriminate against another person under section 5, 6, 7, 7AA or 7A by taking special measures authorised by subsection (1).</p> <p>(3) A measure is to be treated as being taken for a purpose referred to in subsection (1) if it is taken:</p> <p>(a) solely for that purpose; or</p> <p>(b) for that purpose as well as other purposes, whether or not that purpose is the dominant or substantial one.</p> <p>(4) This section does not authorise the taking, or further taking, of special measures for a purpose referred to in subsection (1) that is achieved.</p> |
| | | | 48 (Function of the Australian Human Rights Commission) | <p>(1) The following functions are hereby conferred on the Commission:</p> <p>(a) to exercise the powers conferred on it by section 44; and</p> <p>(b) to promote an understanding and acceptance of, and compliance with, this Act; and</p> <p>(c) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects of this Act; and</p> |

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| | | | | <p>(d) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to the objects of this Act, and to report to the Minister the results of any such examination; and</p> <p>(e) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to discrimination on the ground of sex, marital status, pregnancy or potential pregnancy, breastfeeding or family responsibilities or to discrimination involving sexual harassment; and</p> <p>(ea) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of discrimination on the ground of sex, marital status, pregnancy or potential pregnancy, breastfeeding or family responsibilities and discrimination involving sexual harassment; or</p> <p>(eb) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve issues of discrimination on the ground of sex, marital status, pregnancy or potential pregnancy, breastfeeding or family responsibilities or discrimination involving sexual harassment; and</p> <p>(f) to do anything incidental or conducive to the performance of any of the preceding functions.</p> <p>Note: For the provisions about inquiries into complaints of</p> |

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| | | | | <p>discrimination and conciliation of those complaints: see Part IIB of the <i>Australian Human Rights Commission Act 1986</i> .</p> <p>(2) The Commission shall not regard an enactment or proposed enactment as being inconsistent with or contrary to the objects of this Act for the purposes of paragraph (1)(f) by reason of a provision of the enactment or proposed enactment that is included for the purpose referred to in subsection 7D(1).</p> |

2. New South Wales

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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Anti-Discrimination Act 1977</p> | <p>NSW</p> | <p>7 (What constitutes discrimination on the ground of race)</p> | <p>(1) A person ('the perpetrator') discriminates against another person ('the aggrieved person') on the ground of race if, on the ground of the aggrieved person's race or the race of a relative or associate of the aggrieved person, the perpetrator:</p> <p>(a) treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person of a different race or who has such a relative or associate of a different race; or</p> <p>(b) segregates the aggrieved person from persons of a different race or from persons who have such a relative or associate of a different race; or</p> <p>(c) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons not of that race, or who have such a relative or associate not of that race, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply.</p> <p>(2) For the purposes of subsection (1) (a) and (b), something is done on the ground of a person's race if it is done on the ground of the person's race, a characteristic that appertains</p> |

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| | | | | generally to persons of that race or a characteristic that is generally imputed to persons of that race. |
| | | NSW | 17 (Education) | <p>(1) It is unlawful for an educational authority to discriminate against a person on the ground of race:</p> <p>(a) by refusing or failing to accept the person’s application for admission as a student; or</p> <p>(b) in the terms on which it is prepared to admit the person as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of race:</p> <p>(a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority; or</p> <p>(b) by expelling the student or subjecting the student to any other detriment.</p> <p>(3) Nothing in this section applies to or in respect of a prescribed educational authority in relation to such circumstances, if any, as may be prescribed.</p> |
| | | NSW | 20C (Racial vilification unlawful) | (1) It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group. |

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| | | | | <p>(2) Nothing in this section renders unlawful:</p> <p>(a) a fair report of a public act referred to in subsection (1); or</p> <p>(b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege (whether under the <i>Defamation Act 2005</i> or otherwise) in proceedings for defamation; or</p> <p>(c) a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including discussion or debate about and expositions of any act or matter.</p> |
| | | NSW | 21 (Racial discrimination - Special needs programs and activities) | Nothing in this Part (Racial discrimination) applies to or in respect of anything done in affording persons of a particular race access to facilities, services or opportunities to meet their special needs or to promote equal or improved access for them to facilities, services and opportunities. |
| | | NSW | 31A (Education) | <p>(1) It is unlawful for an educational authority to discriminate against a person on the ground of sex:</p> <p>(a) by refusing or failing to accept the person's application for admission as a student; or</p> <p>(b) in the terms on which it is prepared to admit the person as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate</p> |

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| | | | | <p>against a student on the ground of sex:</p> <p>(a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority; or</p> <p>(b) by expelling the student or subjecting the student to any other detriment.</p> <p>(3) Nothing in this section applies to or in respect of:</p> <p>(a) a private educational authority; or</p> <p>(b) a refusal or failure to accept a person’s application for admission as a student by an educational authority where the educational authority administers a school, college, university or other institution which is conducted solely for students of the opposite sex to the sex of the applicant.</p> <p>(4) The admission into any such school, college, university or other institution of a transgender person as referred to in Part 3A who identifies with the sex of persons for whom the school, college, university or other institution is conducted does not, for the purposes of subsection (3) (b), affect its status as a school, college, university or other institution conducted solely for students of the same sex.</p> |
| | | NSW | 35 (Sex discrimination - Pregnancy, childbirth and | Nothing in this Part (sex discrimination) renders unlawful discrimination by a person against a man on the ground of sex by reason only of the fact that that person grants to a woman rights or privileges in connection with pregnancy, |

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| | | | breastfeeding) | childbirth or breastfeeding. |
| | | NSW | 49L (Disability and Education) | <p>(1) It is unlawful for an educational authority to discriminate against a person on the ground of disability:</p> <p>(a) by refusing or failing to accept his or her application for admission as a student; or</p> <p>(b) in the terms on which it is prepared to admit him or her as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of disability:</p> <p>(a) by denying him or her access, or limiting his or her access, to any benefit provided by the educational authority, or</p> <p>(b) by expelling him or her, or</p> <p>(c) by subjecting him or her to any other detriment.</p> <p>(3) Nothing in this section applies to or in respect of:</p> <p>(a) a private educational authority, or</p> <p>(b) a refusal or failure to accept a person's application for admission as a student by an educational authority where the educational authority administers a school, college, university or other institution which is conducted solely for students who have a disability which is not the same as that of the</p> |

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| | | | | <p>applicant.</p> <p>(4) Nothing in subsection (1) (a) or (2) (b) renders it unlawful to discriminate against a person on the ground of disability where, because of the person's disability, the person requires services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational authority.</p> <p>(5) Nothing in subsection (2) (a) renders it unlawful to discriminate against a person on the ground of disability where, because of the person's disability, the person requires the benefit to be provided in a special manner and the benefit cannot without unjustifiable hardship be so provided by the educational authority.</p> |
| | | NSW | 49T (What constitutes discrimination on the ground of a person's responsibilities as a carer) | <p>(1) A person ('the perpetrator') discriminates against another person ('the aggrieved person') on the ground of the aggrieved person's responsibilities as a carer if, on the ground of the aggrieved person having responsibilities as a carer, the perpetrator:</p> <p>(a) treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person who does not have those responsibilities, or</p> <p>(b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons who do not have such responsibilities comply or are able to comply, being a requirement that is not</p> |

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| | | | | <p>reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply.</p> <p>(2) For the purposes of subsection (1) (a), something is done on the ground of a person’s responsibilities as a carer if it is done on the ground of the person having responsibilities as a carer, a characteristic that appertains generally to persons who have responsibilities as a carer or a characteristic that is generally imputed to persons who have responsibilities as a carer.</p> |
| | | NSW | 49ZYL (Age discrimination and education) | <p>(1) It is unlawful for an educational authority to discriminate against a person on the ground of age:</p> <p>(a) by refusing or failing to accept the person’s application for admission as a student, or</p> <p>(b) in the terms on which it is prepared to admit the person as a student.</p> <p>(2) It is unlawful for an educational authority to discriminate against a student on the ground of age:</p> <p>(a) by denying or limiting access to any benefit provided by the educational authority, or</p> <p>(b) by expelling the student or subjecting the student to any other detriment.</p> <p>(3) Nothing in this section applies to or in respect of:</p> |

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| | | | | <p>(a) the admission of, or the refusal of admission to, a person to a school, college, university or other institution if the level of education or training sought by the person is provided only for students above a particular age, or</p> <p>(b) a private educational authority, or</p> <p>(c) an education authority prescribed by the regulations in relation to such circumstances (if any) as may be so prescribed.</p> <p>(4) Nothing in this section applies to or in respect of a refusal by an educational authority to enrol at a government school or registered non-government school a child who is not of or above the age of 6 years. In this subsection, 'registered non-government school' has the same meaning as in the <i>Education Reform Act 1990</i> .</p> <p>(5) Nothing in this section applies to or in respect of benefits, including concessions, provided in good faith to a student by reason of his or her age.</p> |
| | | NSW | 49ZYA What constitutes discrimination on the ground of age | <p>(1) A person ('the perpetrator') discriminates against another person ('the aggrieved person') on the ground of age if, on the ground of the aggrieved person's age or the age of a relative or associate of the aggrieved person, the perpetrator:</p> <p>(a) treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person who is not of that age or age group or who does not have such a relative or associate who is that age or age group;</p> |

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| | | | | <p>or</p> <p>(b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons who are not of that age or age group, or who do not have such a relative or associate who is that age or age group, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply.</p> <p>(2) For the purposes of subsection (1) (a), something is done on the ground of a person's age if it is done on the ground of the person's age or age group, a characteristic that appertains generally to persons who are that age or age group or a characteristic that is generally imputed to persons who are of that age or age group.</p> <p>(3) In this section: 'associate' of a person means any person with whom he or she associates, whether socially or in business or commerce, or otherwise. 'relative' of a person means:</p> <p>(a) any person to whom the person is related by blood, marriage, affinity or adoption, or the de facto partner of the person, or</p> <p>(b) any person who is wholly or mainly dependent on, or a member of the household of, the person.</p> |

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| | | NSW | 49ZYQ (Age discrimination and Legal capacity and welfare of children) | <p>Nothing in this Part (Age discrimination):</p> <p>(a) affects the operation of a law that relates to the legal capacity or the legal entitlements, obligations or disqualifications of persons who are under 18 years of age; or</p> <p>(b) affects the operation of a law the object of which is to protect the welfare of those persons, including provisions of the criminal law that are designed to protect them.</p> |
| | | NSW | 49ZYR (Special needs programs and activities) | Nothing in this Part applies to or in respect of anything done to afford persons who are of a particular age or age group access to facilities, services or opportunities to meet their special needs or to promote equal or improved access for them to facilities, services and opportunities. |
| | Education Act 1990 | NSW | 20 (Assistance to government school children with special needs) | <p>(1) The Minister may provide or arrange special or additional assistance for government school children with special needs, such as:</p> <p>(a) children with disabilities; or</p> <p>(a1) children with significant learning difficulties; or</p> <p>(b) children who live in isolated or remote areas; or</p> <p>(c) children who are from non-English speaking backgrounds; or</p> <p>(d) Aboriginal children; or</p> |

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| | | | | <p>(e) children with special abilities; or</p> <p>(f) children who are disadvantaged by their socio-economic background.</p> <p>(2) Any such special or additional assistance may include the provision of financial assistance, facilities, courses of study, staff, staff training or distance education.</p> <p>(3) Any such financial assistance is to be paid out of money to be provided by Parliament.</p> <p>(4) For the purposes of subsection (1) (a1), a child has a significant learning difficulty if a qualified teacher or other qualified education professional is of the opinion that the child is not, regardless of the cause, performing in the basic educational areas of reading, writing, spelling and mathematics in accordance with the child's peer age group and stage of learning.</p> |
| | <p>Status of Children Act 1996</p> | NSW | 5 | <p>For the purposes of any law of the State by or under which the relationship between any person and the person's father and mother (or either of them) arises, that relationship and any other relationship (whether of consanguinity or affinity) between the person and another person is to be determined regardless of whether the person's parents are or have been married to each other.</p> |

3. Victoria

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/ State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Equal Opportunity Act 2010</p> | <p>VIC</p> | <p>Part 1 - Objectives (s3) and Application (s5)</p> | <p>Consistent with Article 2 of the CRC, the objectives of the Act include:</p> <p>(a) to eliminate discrimination to the greatest possible extent; and</p> <p>(b) to encourage the identification and elimination of systemic causes of discrimination;</p> <p>The Act refers to the discrimination of 'persons', which is defined to include a natural person of any age. The Act will therefore extend to the prevention of discrimination against children, consistent with the intention of Article 2 of the CRC. A separate definition of 'child' refers to a person under the age of 18 years.</p> <p>Section 5 of the Act provides that it binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities. This is consistent with paragraph 1 of Article 2 of the CRC, which requires that States Parties respect and ensure the rights set forth in the CRC without discrimination.</p> <p>The Act also establishes an independent statutory authority to undertake research, educative and enforcement functions and to assist with dispute resolution (the Victorian Equal Opportunity and Human Rights Commission).</p> |

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| | | | Part 2 - 'What is Discrimination?' | <p>Section 6 of Part 2 of the Act provides that the following types of attributes are those on the basis of which discrimination is prohibited in the areas of activity set out in Part 4:</p> <ul style="list-style-type: none"> (a) age; and (b) breastfeeding; and (c) employment activity; and (d) gender identity; and (e) impairment; and (f) industrial activity; and (g) lawful sexual activity; and (h) marital status; and (i) parental status or status as a carer; and (j) physical features; and (k) political belief or activity; and (l) pregnancy; and (m) race; and (n) religious belief or activity; and |

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| | | | | <p>(o) sex; and</p> <p>(p) sexual orientation;</p> <p>personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.</p> <p>The prohibited grounds of discrimination are consistent with those set out in Article 2 of the CRC. In particular, item (q) appearing in the list above provides the extension anticipated in both paragraphs 1 and 2 of Article 2.</p> <p>Section 7 of the Act provides that discrimination means direct or indirect discrimination on the basis of an attribute (being those attributes listed above). Sections 8 and 9 of the Act further provide that:</p> <p>(a) direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute; and</p> <p>(b) indirect discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice:</p> <p>(i) that has, or is likely to have, the effect of disadvantaging persons with an attribute; and</p> <p>(ii) that is not reasonable.</p> <p>The types of discrimination defined by the Act are not</p> |

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| | | | | inconsistent with Article 2 of the CRC. |
| | | | Part 4 - 'When is Discrimination Prohibited?' | <p>Part 4 of the Act prohibits discrimination in a wide range of activities, including in relation to:</p> <ul style="list-style-type: none"> (a) employment; and (b) education; and (c) the provision of goods and services, and disposal of land; and (d) accommodation; and (e) clubs and club members; and (f) sporting activities; and (g) the administration of local government. <p>To the extent that a child is engaged in any of these areas of activity, they will be entitled to protection from discrimination as set out in the Act. Exemptions exist for the majority of areas of activity, but these exemptions are not inconsistent with Article 2 of the CRC.</p> |
| | | | Part 5 - General Exceptions to and Exemptions from the Prohibition of | <p>Part 5 of the Act provides for various general exceptions and exemptions from the prohibition of discrimination, including in relation to:</p> <ul style="list-style-type: none"> (a) things done with statutory authority or to comply with |

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| | | | Discrimination' | <p>orders of courts and tribunals; and</p> <p>(b) pensions; and</p> <p>(c) superannuation; and</p> <p>(d) charities; and</p> <p>(e) the appointment, training and selection of priests, ministers of religion or members of a religious order; and</p> <p>(f) religious schools; and</p> <p>(g) religious beliefs or principles; and</p> <p>(h) legal incapacity and age of majority; and</p> <p>(i) the protection of health, safety and property; and</p> <p>(j) age benefits and concessions; and</p> <p>(k) special needs.</p> <p>Section 89 of the Act also allows the Victorian Civil and Administrative Tribunal to grant an exemption from any of the provisions of the Act in relation to a person or class of persons, or an activity or class of activities.</p> <p>The specific exemptions set out within Part 5 of the Act are not inconsistent with Article 2 of the CRC.</p> |
| | Racial and Religious | VIC | Section 1 - | The purposes of the Act are stated to include: |

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| | Tolerance Act 2001 | | 'Purpose' | <p>(a) to promote racial and religious tolerance by prohibiting certain conduct involving the vilification of persons on the ground of race or religious belief or activity; and</p> <p>(b) to provide a means of redress for the victims of racial or religious vilification.</p> <p>These stated purposes are consistent with Article 2 of the CRC, which seeks to prevent discrimination against children on various grounds including race and religion.</p> |
| | | | Section 3 - 'Definitions' | <p>Section 3 of the Act includes the following relevant definitions:</p> <ol style="list-style-type: none"> 1. 'Child' means a person under the age of 18 years; and 2. 'Person', in relation to a natural person means a person of any age; and 3. 'Race' includes colour, descent or ancestry, nationality or national origin, and ethnicity or ethnic origin; and 4. 'Religious belief or activity' means holding or not holding a lawful religious belief or view, or engaging in, not engaging in or refusing to engage in a lawful religious activity; |
| | | | Section 6 - 'Act binds the Crown' | <p>Section 6 of the Act provides that it binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities. This is consistent with paragraph 1 of Article 2 of the CRC, which requires that States Parties respect and ensure the rights set</p> |

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| | | | | forth in the CRC without discrimination. |
| | | | Section 7 - 'Racial Vilification Unlawful' | <p>Section 7 of the Act provides that a person must not, on the ground of the race of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.</p> <p>Article 2 of the CRC refers to the discrimination of children based upon his or her race, or his or her parent's or legal guardian's race. Section 7 of the Act may operate to prohibit the taking of action by a person that also has the effect of a child being discriminated against on the basis of their race, consistent with Article 2 of the CRC.</p> |
| | | | Section 8 - 'Religious Vilification Unlawful' | <p>Section 8 of the Act provides that a person must not, on the ground of the religious belief or activity of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.</p> <p>Article 2 of the CRC refers to the discrimination of children based upon his or her religion, or his or her parent's or legal guardian's religion. Section 7 of the Act may operate to prohibit the taking of action by a person that also has the effect of a child being discriminated against on the basis of their religious belief, consistent with Article 2 of the CRC.</p> |
| | | | Sections 11 and 12 - 'Exceptions' | Sections 11 and 12 of the Act set out exceptions to a contravention of sections 7 and 8. However, these exceptions are not inconsistent with Article 2 of the CRC. |

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| CRC Article Number & Description | Relevant Australian Legislation | Cth/ State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| | Charter of Human Rights and Responsibilities Act 2006 | VIC | Section 6 - 'Application' | <p>Section 6 of the Act provides that all persons have those human rights as set out in the Act.</p> <p>Section 6 also provides that the Act will apply to the parliament, courts and tribunals, and public authorities. This is consistent with paragraph 1 of Article 2 of the CRC, which seeks to bind States Parties in their observance of the rights set forth in the CRC.</p> |
| | | | Section 3 - 'Definitions' | <p>'Person' is defined by section 3 of the Act to mean 'a human being', and will therefore extend to children. A separate definition of 'child' refers to a person under the age of 18 years.</p> <p>'Discrimination' is defined by section 3 to mean discrimination within the meaning of the <i>Equal Opportunity Act 2010</i> (VIC) on the basis of an attribute set out in section 6 of that Act. Section 6 of the <i>Equal Opportunity Act 2010</i> (VIC) is summarised in the table above.</p> |
| | | | Part 2 - 'Human Rights' | <p>Part 2 of the Act sets out the human rights that Parliament specifically seeks to protect and promote.</p> <p>Most relevantly, section 8 of the Act provides for the following protection of human rights relating to discrimination:</p> <ol style="list-style-type: none"> 1. Every person has the right to enjoy his or her human rights without discrimination; and 2. Every person is equal before the law and is entitled to the equal protection of the law without discrimination and has |

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| | | | | <p>the right to equal and effective protection against discrimination.</p> <p>These protections against discrimination in the application of human rights are available to children, and are consistent with Article 2 of the CRC.</p> |
| | | | Section 17 - 'Protection of families and children' | <p>Section 17(2) of the Act provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.</p> <p>This is consistent with paragraph 1 of Article 2, which requires that States Parties respect and ensure the rights set out in the CRC without discrimination (including Article 3 which requires that States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being).</p> |
| | Status of Children Act 1974 | VIC | Section 3 - 'All children to be of equal status' | <p>Section 3 of the Act provides that all children are to be of equal status:</p> <p><i>'For all the purposes of the law of Victoria the relationship between every person and his father and mother shall be determined irrespective of whether the father and mother are or have been married to each other and all other relationships shall be determined accordingly'</i></p> <p>This is consistent with paragraph 2 of Article 2 of the CRC, which seeks to prevent discrimination on the basis of the</p> |

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| | | | | status of the parents of a child. |

4. Queensland

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Anti-Discrimination Act 1991</p> | <p>QLD</p> | <p>Part 1 - Purpose and Application of Act</p> | <p>The stated purpose of the Act is to make provision for the promotion of equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity. That purpose is said to be achieved by prohibiting discrimination that is:</p> <ul style="list-style-type: none"> (a) on a ground set out in part 2; and (b) of a type set out in part 3; and (c) in an area of activity set out in part 4. <p>unless an exemption set out in part 4 or 5 applies. Each of parts 2 through 5 of the Act are briefly summarised below.</p> <p>The Act refers throughout to the discrimination of 'persons', without limitation by reference to age. By operation of the <i>Acts Interpretation Act 1954 (Qld)</i>, 'person' will extend to any natural person and therefore to children. The preamble to the Act also includes an express reference to the Convention on the Rights of the Child, and refers to the promotion of equality of opportunity for 'everyone'.</p> <p>Section 3 of the Act provides that it binds the Crown in right of Queensland, and the Crown in all its other capacities so far as the legislative power of the Parliament allows. This is consistent with paragraph 1 of Article 2 of the CRC, which requires that States Parties respect and ensure the rights set</p> |

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| | | | | <p>forth in the CRC without discrimination.</p> <p>The Act also establishes an independent statutory authority for the handling of complaints for unlawful discrimination (the Anti-Discrimination Commission Queensland).</p> |
| | | | <p>Part 2 - Prohibited Grounds of Discrimination</p> | <p>Section 7 of Part 2 of the Act prohibits discrimination on the basis of the following attributes:</p> <ul style="list-style-type: none"> (a) sex; and (b) relationship status; and (c) pregnancy; and (d) parental status; and (e) breastfeeding; and (f) age; and (g) race (which is defined to include colour, descent or ancestry, ethnicity or ethnic origin, and nationality or national origin); and (h) impairment; and (i) religious belief or religious activity; and (j) political belief or activity; and (k) trade union activity; and |

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| | | | | <p>(l) lawful sexual activity; and</p> <p>(m) gender identity; and</p> <p>(n) sexuality; and</p> <p>(o) family responsibilities; and</p> <p>(p) association with, or relation to, a person identified on the basis of any of the above attributes.</p> <p>The prohibited grounds of discrimination are consistent with those set out in Article 2 of the CRC. In particular, item (p) appearing in the list above provides the extension anticipated in both paragraphs 1 and 2 of Article 2.</p> |
| | | | <p>Part 3 - Prohibited types of discrimination</p> | <p>The Act prohibits the following types of discrimination:</p> <ol style="list-style-type: none"> 1. direct discrimination, which happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different; and 2. indirect discrimination, which happens if a person imposes, or proposes to impose, a term: <ol style="list-style-type: none"> (a) with which a person with an attribute does not or is not able to comply, and (b) with which a higher proportion of people without the |

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| | | | | <p>attribute comply or are able to comply, and</p> <p>(c) that is not reasonable.</p> <p>The types of discrimination defined by the Act are not inconsistent with Article 2 of the CRC.</p> |
| | | | <p>Part 4 - Areas of activity in which discrimination is prohibited</p> | <p>The Act prohibits discrimination in a wide range of activities, including:</p> <ul style="list-style-type: none"> (a) employment; and (b) education; and (c) accommodation; and (d) the supply of goods and services, including financial services such as superannuation and insurance; and (e) disposition of land; and (f) club memberships; and (g) the administration of state laws and programs; and (h) the administration of local government. <p>To the extent that a child is engaged in any of these areas of activity, they will be entitled to protection from discrimination as set out in the Act. Exemptions exist for the majority of areas of activity, but these exemptions are not inconsistent with Article 2 of the CRC.</p> |

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| | | | | <p>In addition, paragraph 1 of Article 2 requires that States Parties to the CRC respect and ensure the rights set forth in the convention to children without discrimination. To the extent that ensuring those rights to children constitutes a function or exercise of any power under state law, Division 10 of Part 4 of the Act will require that the exercise of such function or power be undertaken without discrimination. Division 10 of Part 4 relevantly provides:</p> <p><i>'A person who:</i></p> <p><i>(a) performs any function or exercises any power under State law or for the purposes of a State Government program; or</i></p> <p><i>(b) has any other responsibility for the administration of State law or the conduct of a State Government program;</i></p> <p><i>must not discriminate in—</i></p> <p><i>(a) the performance of the function; or</i></p> <p><i>(b) the exercise of the power; or</i></p> <p><i>(c) the carrying out of the responsibility.'</i></p> |
| | | | Part 5 - General exemptions for discrimination | <p>Sections 104 to 112 of Part 5 of the Act provide for various exemptions to otherwise prohibited discrimination, including in relation to:</p> <p>(a) welfare measures, provided its purpose is not inconsistent with the Act; and</p> |

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| | | | | <p>(b) equal opportunity measures; and</p> <p>(c) acts done in compliance with legislation, an industrial agreement, or an order of a court or the Anti-Discrimination Tribunal; and</p> <p>(d) compulsory retirement ages; and</p> <p>(e) acts taken that are reasonably necessary to protect public health; and</p> <p>(f) acts taken that are reasonably necessary to protect the health and safety of people at a place of work; and</p> <p>(g) acts relating to the appointment, training and selection of priests, ministers of religion or members of a religious order; and</p> <p>(h) the inclusion of a discriminatory provision in a document that provides exclusively for charitable benefits, and the doing of an act that is required to give effect to such a provision; and</p> <p>(i) the restriction of participation in a competitive sporting activity; and</p> <p>(j) legal incapacity.</p> <p>Sections 113 and 114 of the Act also allow the Anti-Discrimination Tribunal to grant, upon application by a person or class of persons, an exemption from the operation</p> |

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| | | | | <p>of a specified provision of the Act.</p> <p>The specific exemptions set out within Part 5 of the Act are not inconsistent with Article 2 of the CRC.</p> |
| | Child Protection Act 1999 | QLD | Section 5B - Other Guiding Principles | <p>Section 5B of this Act provides various general principles for ensuring the safety, wellbeing and best interests of a child. In particular, s5B(m) states that a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic and religious identity and values.</p> <p>This is consistent with Article 2 of the CRC, which requires that States Parties respect and ensure the rights of children under the convention without discrimination based upon nationality, religion, or ethnic or social origin.</p> |
| | Status of Children Act 1978 | QLD | Part 2 - Status of Children | <p>Section 6 of Part 2 of the Act provides that all children are to be of equal status:</p> <p><i>'For all the purposes of the law of the State, the relationship between every person and the person's father and mother shall be determined irrespective of whether the father and mother are or have been married to each other and all other relationships shall be determined accordingly.'</i></p> <p>This is consistent with paragraph 2 of Article 2 of the CRC, which seeks to prevent discrimination on the basis of the status of the parents of a child.</p> |

5. South Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Equal Opportunity Act 1984</p> | <p>SA</p> | <p>PART 1 - s5</p> | <p>s5 Interpretation</p> <p>'child' means a person who is under the age of 18 years;</p> |
| | | | <p>PART 2 - ss 8 and 17</p> | <p>s8 There will be a Commissioner for Equal Opportunity</p> <p>s17 The <i>Equal Opportunity Tribunal</i> is established.</p> |
| | | | <p>PART 3 - ss30, 31, 32, 34, 35 and 37</p> | <p>PART 3-Prohibition of discrimination on ground of sex, chosen gender or sexuality</p> <p>s30 It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of sex, chosen gender or sexuality.</p> <p>s31 It is unlawful for the principal to discriminate against an agent or independent contractor (or prospective agent or independent contractor) on the ground of sex, chosen gender or sexuality.</p> <p>s32 It is unlawful for the principal to discriminate against a contract worker on the ground of sex, chosen gender or sexuality.</p> <p>s35 It is unlawful for an association to discriminate against a member (or prospective member) of the association on the ground of sex, chosen gender or sexuality. There are exemptions including if the association is established for—</p> |

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| | | | | <p>persons of a particular sex; or persons of a chosen gender; or persons of a particular sexuality (other than heterosexuality).</p> <p>s34 There are exemptions including if:</p> <p>the discrimination on the ground of sex, chosen gender or sexuality in relation to employment or engagement for which it is a genuine occupational requirement that a person be a person of a particular sex, a person of a chosen gender or a person of a particular sexuality</p> <p>the discrimination on the ground of chosen gender or sexuality in relation to employment or engagement for the purposes of an educational institution if the educational institution is administered in accordance with the precepts of a particular religion and the discrimination is founded on the precepts of that religion</p> <p>the discrimination on the ground of chosen gender in relation to employment or engagement if the discrimination is for the purposes of enforcing standards of appearance and dress reasonably required for the employment or engagement.</p> <p>s37 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of sex, chosen gender or sexuality. There is an exemption if the educational institution was established wholly or mainly for students of the one sex.</p> |
| | | | PART 4 - ss 52, 53, 54, 56, 57 | <p>PART 4-Prohibition of discrimination on ground of race</p> <p>s52 It is unlawful for an employer to discriminate against an</p> |

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| | | | and 59 | <p>employee (or prospective employee) on the ground of race.</p> <p>s53 It is unlawful for the principal to discriminate against an agent or independent contractor (or prospective agent or independent contractor) on the ground of race.</p> <p>s54 It is unlawful for the principal to discriminate against a contract worker (or prospective contract worker) on the ground of race.</p> <p>s56 There are exemptions including if the discrimination on the ground of race in relation to employment or engagement for which it is a genuine occupational requirement that a person be of a particular race.</p> <p>s57 It is unlawful for an association to discriminate against a member (or prospective member) of the association on the ground of race. There is an exemption if a club is established principally for the purpose of promoting social intercourse between the members of a particular racial or ethnic group.</p> <p>s59 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of race.</p> |
| | | | PART 5 - ss 67, 68, 69, 71, 72 and 74 | <p>PART 5-Prohibition of discrimination on ground of disability</p> <p>s67 It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of disability.</p> <p>s68 It is unlawful for the principal to discriminate against an</p> |

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| | | | | <p>agent or independent contractor (or prospective agent or independent contractor) on the ground of disability.</p> <p>s69 It is unlawful for the principal to discriminate against a contract worker (or prospective contract worker) on the ground of disability.</p> <p>s71 There are exemptions including if the discrimination on the ground of disability in relation to employment or engagement if the person suffering from the disability is not, or would not be, able:</p> <p>(a) to perform adequately, and without endangering himself or herself or other persons, the work genuinely and reasonably required for the employment or position in question; or</p> <p>(b) to respond adequately to situations of emergency that should reasonably be anticipated in connection with the employment or position in question.</p> <p>s72 It is unlawful for an association to discriminate against a member (or prospective member) of the association on the ground of disability.</p> <p>s74 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of disability. There is an exemption if the discrimination on the ground of disability is in respect of admission to a school, college or institution established wholly or mainly for students who have a particular disability.</p> |

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| | | | PART 5A - ss 85B, 85C, 85D, 85F, 85G and 85I | <p>PART 5A-Prohibition of discrimination on ground of age</p> <p>s85B It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of age.</p> <p>s85C It is unlawful for the principal to discriminate against an agent or independent contractor (or prospective agent or independent contractor) on the ground of age.</p> <p>s85D It is unlawful for the principal to discriminate against a contract worker (or prospective contract worker) on the ground of age.</p> <p>s85F There are exemptions including if the discrimination on the ground of age in relation to employment or engagement:</p> <p>(a) for which there is a genuine occupational requirement that a person be of a particular age, or age group.</p> <p>(b) of a person if the person is not, or would not be, able to:</p> <p>perform adequately, and without endangering himself or herself or other persons, the work genuinely and reasonably required for the employment or position in question; or</p> <p>to respond adequately to situations of emergency that should reasonably be anticipated in connection with the employment or position in question</p> <p>s85G It is unlawful for an association to discriminate against a member (or prospective member) of the association on the ground of age. There are exemptions including if the association was established wholly or mainly for the promotion of the interests of persons of a particular age</p> |

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| | | | | <p>group.</p> <p>s85I It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of age. There is an exemption if the discrimination on the ground of age in respect of the admission of a person to a school, college or institution if the level of education or training sought by the person is provided only for students above a particular age.</p> |
| | | | PART 5B - s85T | <p>PART 5B-Prohibition of discrimination on other grounds</p> <p>s85T It is also unlawful to discriminate on the ground of</p> <ul style="list-style-type: none"> (a) marital or domestic partnership status; or (b) discriminate on the ground of the identity of a spouse or domestic partner; or (c) discriminate on the ground of pregnancy; or (d) discriminate on the ground of association with a child; or (e) discriminate on the ground of caring responsibilities; or (f) discriminate on the ground of religious appearance or dress, |
| | | | PART 6 - ss87, 87A and 87B | PART 6-Other unlawful acts |

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| | | | | <p>s87 Sexual harassment</p> <p>It is unlawful for a person to subject to sexual harassment a person including in the following situations:</p> <p>It is unlawful for a person to subject to sexual harassment a person with whom he or she works; or a person who is seeking to become a fellow worker.</p> <p>It is unlawful for a person who works for an educational authority to subject a student of the educational authority, or a person applying to become a student of the educational authority, to sexual harassment.</p> <p>It is unlawful for a student of or over 16 years of age, while in attendance at a place in connection with his or her education, to subject a person who works at the educational institution at which the student is enrolled or a fellow student to sexual harassment.</p> <p>It is unlawful for a person to subject another to sexual harassment in the course of offering or supplying goods to that other person; or offering or performing services to which this Act applies for that other person; or offering or providing accommodation to that other person.</p> <p>s87A Sharing accommodation with a child</p> <p>It is unlawful for a person to refuse an application for accommodation; or to defer such an application or accord the</p> |

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| | | | | <p>applicant a late order of precedence on a list of applicants for that accommodation, on the ground that the applicant intends to share that accommodation with a child.</p> <p>There are exemptions including if the provision of accommodation is for recreational purposes, if the use of that accommodation is limited, on a genuine and reasonable basis, to persons other than children or persons of a particular age group.</p> <p>87B—Student breast feeding infant</p> <p>It is unlawful for an educational authority to discriminate against a student by denying or limiting access to the educational services provided by the authority on the ground that the student is breast feeding an infant or proposes to do so.</p> <p>There is an exemption if the if the student is not, or would not be, able to perform adequately, and without endangering herself or other persons, the activity; or to respond adequately to situations of emergency that should reasonably be anticipated in connection with the activity.</p> |
| | | | PART 8: s96A and generally | <p>PART 8 Enforcement</p> <p>96A—Limitation on publicity relating to child</p> <p>A person must not publish, by radio, television or newspaper, on the Internet or in any other way, a report of proceedings under this Act to which a child is a party if the report</p> |

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| | | | | <p>identifies the child or contains information tending to identify the child. Maximum penalty: \$10 000</p> <p>Complaint must be in writing to the Equal Opportunity Commissioner. It is then assessed and if within jurisdiction is investigated and conciliation attempted. If unsuccessful, the matter is referred to the Equal Opportunity Tribunal for hearing and legally enforceable determination</p> |
| | <p>Racial Vilification Act 1996</p> | <p>SA</p> | <p>s4</p> | <p>s4 A person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their race by:</p> <p>(a) threatening physical harm to the person, or members of the group, or to property of the person or members of the group; or</p> <p>(b) inciting others to threaten physical harm to the person, or members of the group, or to property of the person or members of the group.</p> <p>Maximum penalty:</p> <p>If the offender is a body corporate—\$25 000. If the offender is a natural person—\$5 000, or imprisonment for 3 years, or both</p> |
| | | | <p>s6</p> | <p>s6 A court by which a person is convicted of an offence against this Act may award damages (including punitive damages) against the defendant.</p> |

6. Western Australia

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Equal Opportunity Act 1984</p> | <p>WA</p> | <p>PART II Discrimination on ground of sex, marital status, pregnancy or breast feeding: ss 11, 12, 13, 15, 17, 18, 24, 25, 26 and 27</p> | <p>s11 It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> <p>s12 It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> <p>s13 It is unlawful for a principal to discriminate against a contract worker on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> <p>s15 It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> <p>s17 It is unlawful for an employment agency to discriminate against a person on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> <p>s18 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's sex, marital status, pregnancy or breast feeding.</p> |

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| | | | | <p>s24 It is unlawful for a person to harass sexually:</p> <p>(a) an employee or prospective employee</p> <p>(b) a commission agent or contract worker or prospective commission agent or contract worker</p> <p>s25 It is unlawful for a staff member of an educational institution to harass sexually a student or prospective student of the educational institution.</p> <p>s26 It is unlawful for a person who as principal or agent exercises control over accommodation to harass sexually a person who occupies (or is a prospective occupant of) the accommodation.</p> <p>There are some exceptions to Part II including for example genuine occupational qualifications (s27).</p> |
| | | | <p>PART IIAA Discrimination on gender history grounds in certain cases: ss 35AA, 35AC, 35AD, 35AE, 35AG, 35AI and 35AJ</p> | <p>s35AA A person has a gender history if the person identifies as a member of the opposite sex by living, or seeking or live, as a member of the opposite sex.</p> <p>s35AC It is unlawful for an employer to discriminate on gender history grounds against an employee (or prospective employee) who is a gender reassigned person.</p> <p>s35AD It is unlawful for a principal to discriminate on gender history grounds against a commission agent (or a prospective commission agent) who is a gender reassigned person.</p> |

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| | | | | <p>s35AE It is unlawful for a principal to discriminate on gender history grounds against a contract worker who is a gender reassigned person.</p> <p>s35AG It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate on gender history grounds against a member (or prospective member) who is a gender reassigned person.</p> <p>s35AI It is unlawful for an employment agency to discriminate against a gender reassigned person on gender history grounds.</p> <p>s35AJ It is unlawful for an educational authority to discriminate on gender history grounds against a student (or prospective student) who is a gender reassigned person.</p> |
| | | | <p>PART IIA Discrimination on the ground of family responsibility or family status: ss35B, 35C, 35D, 35F, 35H and 35I</p> | <p>s35B It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's family responsibility or family status.</p> <p>s35C It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's family responsibility or family status.</p> <p>s35D It is unlawful for a principal to discriminate against a contract worker on the ground of the person's family responsibility or family status.</p> <p>s35F It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the</p> |

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| | | | | <p>ground of the person's family responsibility or family status.</p> <p>s35H It is unlawful for an employment agency to discriminate against a person on the ground of the person's family responsibility or family status.</p> <p>s35I It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's family responsibility or family status.</p> <p>There are some exceptions to Part IIA including for example measures intended to meet special needs (s35K).</p> |
| | | | <p>PART IIB Discrimination on ground of sexual orientation: ss 35P, 35Q, 35R, 35T, 35V and 35W</p> | <p>s35P It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's sexual orientation.</p> <p>s35Q It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's sexual orientation.</p> <p>s35R It is unlawful for a principal to discriminate against a contract worker on the ground of the person's sexual orientation.</p> <p>s35T It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's sexual orientation.</p> <p>s35V It is unlawful for an employment agency to discriminate against a person on the ground of the person's</p> |

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| | | | | <p>sexual orientation.</p> <p>s35W It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's sexual orientation.</p> <p>There are some exceptions to Part IIB including for example measures intended to achieve equality (s35ZD).</p> |
| | | | <p>PART III Discrimination on the ground of race: ss 37, 38, 39, 41, 43, 44, 49A, 49B, 49C and 50</p> | <p>s37 It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's race.</p> <p>s38 It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's race.</p> <p>s39 It is unlawful for a principal to discriminate against a contract worker on the ground of the person's race.</p> <p>s41 It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's race.</p> <p>s43 It is unlawful for an employment agency to discriminate against a person on the ground of the person's race.</p> <p>s44 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's race.</p> |

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| | | | | <p>s49A It is unlawful for a person to harass racially:</p> <p>(a) an employee or prospective employee</p> <p>(b) a commission agent or contract worker or prospective commission agent or contract worker</p> <p>s49B It is unlawful for a staff member of an educational institution to harass racially a student or prospective student of the educational institution.</p> <p>s49C It is unlawful for a person who as principal or agent exercises control over accommodation to harass racially a person who occupies (or is a prospective occupant of) the accommodation.</p> <p>There are some exceptions to Part II including for example genuine occupational qualifications (s50).</p> |
| | | | <p>PART IV Discrimination on the ground of religious or political conviction: ss54, 55, 56, 58, 60 and 61</p> | <p>s54 It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's religious or political conviction.</p> <p>s55 It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's religious or political conviction.</p> <p>s56 It is unlawful for a principal to discriminate against a contract worker on the ground of the person's religious or political conviction.</p> <p>s58 It is unlawful for a professional or trade organisation (or</p> |

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| | | | | <p>committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's religious or political conviction.</p> <p>s60 It is unlawful for an employment agency to discriminate against a person on the ground of the person's religious or political conviction.</p> <p>s61 It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's religious or political conviction.</p> <p>There are some exceptions to Part IV including for example where the employer is a private educational authority or religious body (s66).</p> |
| | | | <p>PART IVA Discrimination on the ground of impairment: ss 66B, 66C, 66D, 66F, 66H, 66I and 66S</p> | <p>s66B It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's impairment.</p> <p>s66C It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's impairment.</p> <p>s66D It is unlawful for a principal to discriminate against a contract worker on the ground of the person's impairment.</p> <p>s66F It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's impairment.</p> |

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| | | | | <p>s66H It is unlawful for an employment agency to discriminate against a person on the ground of the person's impairment.</p> <p>s66I It is unlawful for an educational authority to discriminate against a student (or prospective student) on the ground of the person's impairment.</p> <p>There are some exceptions to Part IVA including for example genuine occupational qualifications (s66S).</p> |
| | | | <p>PART IVB Discrimination on the ground of age: ss 66W, 66X, 66Y, 66ZA, 66ZC, 66ZD and 66ZO</p> | <p>s66W It is unlawful for an employer to discriminate against an employee (or prospective employee) on the ground of the person's age.</p> <p>s66X It is unlawful for a principal to discriminate against a commission agent (or a prospective commission agent) on the ground of the person's age.</p> <p>s66Y It is unlawful for a principal to discriminate against a contract worker on the ground of the person's age.</p> <p>s66ZA It is unlawful for a professional or trade organisation (or committee of management or committee member) to discriminate a member (or prospective member) on the ground of the person's age.</p> <p>s66ZC It is unlawful for an employment agency to discriminate against a person on the ground of the person's age.</p> <p>s66ZD It is unlawful for an educational authority to</p> |

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| | | | | <p>discriminate against a student (or prospective student) on the ground of the person's age.</p> <p>There are some exceptions to Part IVB including for example if a person refuses to enter into a contract with a person who is a minor if that contract would, if entered into, be unenforceable at common law (s66ZO).</p> |
| | | | PART VII and VIII: s75 and generally | <p>s75 There shall be a Commissioner for Equal Opportunity who shall be appointed by the Governor.</p> <p>Complaint must be in writing to the Commissioner for Equal Opportunity. It is then assessed and if within jurisdiction is investigated and conciliation attempted. If unsuccessful, the matter is referred to the Equal Opportunity Tribunal for hearing and legally enforceable determination</p> |

7. Northern Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/ State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2 :</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Anti-Discrimination Act 1996</p> | <p>NT</p> | <p>PART 1: s4</p> | <p>s4 'child' means a person who has not attained the age of 18 years</p> |
| | | | <p>PART 3 Discrimination: s19</p> | <p>s19 It is prohibited to discriminate against another person on the ground of any of the following attributes:</p> <ul style="list-style-type: none"> (a) race (b) sex (c) sexuality (d) age (e) marital status (f) pregnancy (g) parenthood (h) breastfeeding (i) impairment (j) trade union or employer association activity (k) religious belief or activity |

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| | | | | <ul style="list-style-type: none"> (l) political opinion, affiliation or activity (m) irrelevant medical record (n) irrelevant criminal record (o) association with a person who has, or is believed to have, an attribute referred to in this section. |
| | | | <p>PART 4 Areas of activities where discrimination prohibited: ss 28, 37 and 45</p> | <p>s28 The prohibition against discrimination applies in the areas of:</p> <ul style="list-style-type: none"> (a) education; and (b) work; and (c) accommodation; and (d) goods, services and facilities; and (e) clubs; and (f) insurance and superannuation. |
| | | | <p>PART 5 Exemptions: ss 37, 45 and 50</p> | <p>There are exemptions for example:</p> <p>A person may discriminate against another person on the grounds of irrelevant criminal record in the area of work if:</p> <ul style="list-style-type: none"> (a) the work principally involves the care, instruction or supervision of vulnerable persons; and (b) the discrimination is reasonably necessary to protect the physical, psychological or emotional well-being of those vulnerable persons, having |

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| | | | | <p>regard to all of the relevant circumstances of the case including the person's actions. 'Vulnerable persons' includes children, aged persons and persons with a physical or intellectual disability or mental illness. (s37)</p> <p>A person may require, as a term of supplying goods, services or facilities to a child, that the child be accompanied by an adult if there is a reasonable risk that a child could cause a disruption or endanger himself or herself, or others, if not accompanied by an adult (s45).</p> <p>A person may discriminate against another person who is subject to a legal incapacity if that incapacity is relevant to the transaction in which they are involved (s50).</p> |
| | | | PART 6 Resolution of complaints: generally | Complaint in writing to the Anti-Discrimination Commissioner. It is then assessed and if within jurisdiction is investigated and conciliation may be attempted. If unsuccessful, the Commissioner may hold a hearing and make a legally enforceable determination. |

8. Tasmania

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

| CRC Article Number & Description | Relevant Australian Legislation | Cth/ State | Relevant Provisions of the Australian Legislation | Summary/Description of Relevant Provision |
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| <p>ARTICLE 2:</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p> | <p>Anti-Discrimination Act 1998</p> | <p>TAS</p> | <p>Sections 6 and 7 (Anti-discrimination commissioner functions and powers)</p> | <p>An anti-discrimination commissioner has defined functions under the act, listed in s 6, as follows:</p> <p>(a) to advise and make recommendations to the Minister on matters relating to discrimination and prohibited conduct; and</p> <p>(b) to promote the recognition and approval of acceptable attitudes, acts and practices relating to discrimination and prohibited conduct; and</p> <p>(c) to consult and inquire into discrimination and prohibited conduct and the effects of discrimination and prohibited conduct; and</p> <p>(d) to disseminate information about discrimination and prohibited conduct and the effects of discrimination and prohibited conduct; and</p> <p>(e) to undertake research and educational programs to promote attitudes, acts and practices against discrimination and prohibited conduct; and</p> <p>(f) to prepare and publish guidelines for the avoidance of attitudes, acts and practices relating to discrimination and prohibited conduct; and</p> <p>(g) to examine any legislation and report to the Minister as to</p> |

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| | | | | <p>whether it is discriminatory or not; and</p> <p>(h) to investigate and seek to conciliate complaints; and</p> <p>(i) to collect and analyse data relating to complaints; and</p> <p>(j) any other prescribed functions.</p> <p>The commissioner has the following powers, set out in section 7:</p> <p>(a) to determine the procedures to be followed in any investigation or conciliation; and</p> <p>(b) to intervene, with the leave of a court or tribunal, in proceedings before the court or tribunal that involve issues relating to acts of discrimination or prohibited conduct; and</p> <p>(c) to grant an exemption from the application of this Act in respect of any acts of discrimination or prohibited conduct; and</p> <p>(d) to do anything necessary or convenient to perform the functions of the Commissioner.</p> |
| | | | Section 13 (Tribunal functions) | <p>The functions of a Tribunal are:</p> <p>(a) to conduct an inquiry into a complaint; or</p> <p>(b) to review a decision of the Commissioner relating to exemptions, withdrawals, rejections and dismissals of</p> |

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| | | | | complaints. |
| | | TAS | Section 15, 16 and 17 (defining discrimination, including a list of the attributes on the grounds of which a person must not discriminate) | <p>Direct discrimination takes place if a person treats another person on the basis of any prescribed attribute, imputed prescribed attribute or a characteristic imputed to that attribute less favourably than a person without that attribute or characteristic.</p> <p>Indirect discrimination takes place if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who:</p> <ul style="list-style-type: none"> (a) share, or are believed to share, a prescribed attribute; or (b) share, or are believed to share, any of the characteristics imputed to that attribute: <ul style="list-style-type: none"> (i) more than a person who is not a member of that group. <p>A person must not discriminate against another person (including a child) on the ground of any of the following attributes:</p> <ul style="list-style-type: none"> (a) race; (b) age; (c) sexual orientation; (d) lawful sexual activity; |

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| | | | | <ul style="list-style-type: none"> (e) gender; (f) marital status; (fa) relationship status; (g) pregnancy; (h) breastfeeding; (i) parental status; (j) family responsibilities; (k) disability; (l) industrial activity; (m) political belief or affiliation; (n) political activity; (o) religious belief or affiliation; (p) religious activity; (q) irrelevant criminal record; (r) irrelevant medical record; (s) association with a person who has, or is believed to have, any of these attributes. |

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| | | | | <i>[Note: No specific protection against discrimination based on colour, language, property or birth]</i> |
| | | TAS | Section 22 (Limitation on application of the Anti-Discrimination Act) | Subject exceptions and exemptions ... this Act applies to discrimination and prohibited conduct... in connection with any of the following: <ul style="list-style-type: none"> (a) employment; (b) education and training; (c) provision of facilities, goods and services; (d) accommodation; (e) membership and activities of clubs; (f) administration of any law of the State or any State program - on the grounds of gender; marital status; relationship status; pregnancy; breastfeeding; parental status or family responsibilities only (g) awards, enterprise agreements or industrial agreements - on the grounds of gender; marital status; relationship status; pregnancy; breastfeeding; parental status or family responsibilities only |
| | | TAS | Section 25 and 26 (positive discrimination generally) | The Act allows a person to discriminate in an area, program, plan or arrangement: <ul style="list-style-type: none"> (a) for the purpose of carrying out a scheme for the benefit of a group which is disadvantaged or has a special need because |

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| | | | | <p>of a prescribed attribute.</p> <p>(b) to promote equal opportunity for a group of people who are disadvantaged or have a special need because of a prescribed attribute.</p> |
| | | TAS | Section 27, 29, 30 (Where the state will allow discrimination on the basis of sex) | <p><u>Sex:</u> Gender discrimination is allowed in the following circumstances that might be relevant to children:</p> <p>(a) in a religious institution, if it is required by the doctrines of the religion of the institution; or</p> <p>(b) in education, if it is for the purpose of enrolment in one-gender schools or hostels; or</p> <p>(c) in employment, if it is based on a genuine occupational qualification or requirement in relation to a particular position; or</p> <p>(d) in the provision or use of facilities, if those facilities are reasonably required for use by persons of one gender only; or</p> <p>(e) in respect of the use of any benefit provided by a club if – it is not practicable for the benefit to be used simultaneously or to the same extent by both men and women; and the benefit is provided – for the use of men and women separately from each other; or to men and women in a fair and reasonable proportion; or</p> <p>(f) in respect of membership of a club if the membership of the club is available only to persons of one gender; or</p> |

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| | | | | <p>(g) to restrict participation in competitive sporting activities for those aged 12 years and over; or</p> <p>(h) in respect of insurance or superannuation provision provided that it is based on certain data and is reasonable.</p> |
| | | | <p>Sections 28 and 30 (Where the state will allow discrimination on the basis of status)</p> | <p>Discrimination on the ground of family responsibilities, parental status, pregnancy, breastfeeding, marital status or relationship status is allowed if that other person requires special services and facilities the supply of which would impose unjustifiable hardship.</p> <p>Discrimination on the ground of marital status or relationship status in the provision of services relating to insurance or superannuation is allowed provided that it is based on certain data and is reasonable.</p> |
| | | TAS | <p>Section 29, 31-39, 54 (Discrimination relating to age/legal incapacity which is expressly allowed)</p> | <p>A person may discriminate against another person on the ground of age:</p> <p>(a) in relation to any competitive sporting activity by restricting participation to persons of a particular age group (and, if the participants are over 12 years old, one gender).</p> <p>(b) in respect of membership of a club if the membership of the club is available only to persons of a particular age group;</p> <p>(c) in relation to superannuation, provided that the discrimination is based on certain data and is reasonable;</p> <p>(d) in relation to insurance and financial services provided that the discrimination is based on certain data and is</p> |

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| | | | | <p>reasonable;</p> <p>(e) in relation to employment if the discrimination is based –</p> <p>(i) on a genuine occupational qualification or requirement in relation to a particular position; or</p> <p>(ii) on wage rates that are based on age.</p> <p>(f) in relation to the provision of educational programs for persons of a particular age group;</p> <p>(g) in relation to the provision of benefits and concessions provided to persons of a particular age group;</p> <p>(h) against a child on the ground of age if the discrimination requires the child to be accompanied by an adult in circumstances where there is a reasonable risk that the child may:</p> <p>(i) cause a disruption if not accompanied by an adult; or</p> <p>(ii) endanger himself or herself or any other person if not accompanied by an adult.</p> <p>A person may discriminate against another person on the ground of age or disability in relation to legal incapacity if the incapacity is relevant to the area of activity in respect of which the discrimination is made</p> |
| | | | Sections 40-42 (Where the state | A person may discriminate against another person on the |

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| | | | will allow discrimination on the basis of race, religion and culture) | <p>ground of race:</p> <p>(a) in relation to the use of any benefit provided by a club – to preserve a minority culture; or to prevent or reduce any disadvantage that may be suffered by a member of that race;</p> <p>(b) in relation to employment if the discrimination is based on a genuine occupational qualification or requirement in relation to a particular position;</p> <p>(c) in relation to places of cultural or religious significance if the discrimination is in accordance with –</p> <p>(i) the customs of the culture; or</p> <p>(ii) the doctrines of the religion; and</p> <p>(d) is necessary to avoid offending the cultural or religious sensitivities of any person of the culture or religion.</p> |
| | | | Sections 43-48 (Where the state will allow discrimination on the basis of disability) | <p>A person may discriminate against another person on the ground of disability:</p> <p>(a) in relation to any competitive sporting activity;</p> <p>(b) in the provision of services relating to any annuity or insurance or superannuation if the discrimination provided that it is based on certain data and is reasonable;</p> <p>(c) in relation to employment provided the person is unable to carry out the inherent requirements of the employment or</p> |

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| | | | | <p>certain other requirements are met;</p> <p>(d) in relation to the provision of special educational facilities for the use of persons with disabilities;</p> <p>(e) if the disability is an infectious disease;</p> <p>(f) in access to public places, if the provision of access would cause unjustifiable hardship; or</p> <p>(g) in the provision of goods and services, if that would cause unjustifiable hardship.</p> |
| | | TAS | Sections 51-52 (Where the state will allow discrimination on the basis of religious affiliation) | <p>A person may discriminate against another person on the ground of religious affiliation:</p> <p>(a) in relation to employment if the participation of the person in the observance or practice of a particular religion is a genuine occupational qualification or requirement in relation to the employment; and</p> <p>(b) in relation to employment in an educational institution that is or is to be conducted in accordance with the tenets, beliefs, teachings, principles or practices of a particular religion if the discrimination is in order to enable, or better enable, the educational institution to be conducted in accordance with those tenets, beliefs, teachings, principles or practices; and</p> <p>(c) in relation to any act that is carried out in accordance with the doctrine of a particular religion and is necessary to avoid offending the religious sensitivities of any person of</p> |

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| | | | | that religion, including, for example, the ordination or appointment of a priest. |
| | | TAS | Section 89 (Tribunal Orders) | <p>If the Tribunal finds after an inquiry that a complaint is substantiated, it may make one or more of the following orders:</p> <ul style="list-style-type: none"> (a) an order that the respondent must not repeat or continue the discrimination or prohibited conduct; and (b) an order that the respondent must redress any loss, injury or humiliation suffered by the complainant and caused by the respondent's discrimination or prohibited conduct; and (c) an order that the respondent must re-employ the complainant; and (d) an order that the respondent must pay to the complainant, within a specified period, an amount the Tribunal thinks appropriate as compensation for any loss or injury suffered by the complainant and caused by the respondent's discrimination or prohibited conduct; and (e) an order that the respondent must pay a specified fine not exceeding 20 penalty units; and (f) an order that a contract or agreement is to be varied or declared void in whole or in part; and (g) an order that it is inappropriate for any further action to be taken in the matter; and |

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| | | | | (h) any other order it thinks appropriate. |
| | | TAS | Section 100 (Avenue for appeal) | A person may appeal a tribunal decision to the Supreme Court on a question of law. |
| | Criminal Code Act 1924 | TAS | Section 178A (parents' beliefs no defence to FGM) | Any person who performs female genital mutilation on another person is guilty of a crime. It is not a defence to a charge under this section that the person on whom female genital mutilation was performed or that person's parent or guardian consented to the mutilation. |
| | | | Section 145 (universal right to necessities of life) | It is the duty of every person who, as head of a family, has the charge of a child under the age of 16 years, being a member of his household, to provide the necessities of life for such child. |
| | Education Act | TAS | Section 9(3) (Protection of disabled child's right to attend school) | A school-aged child who is enrolled at a school is not exempted from the requirement to attend the school by reason only of any disability. |
| | | TAS | Section 34 (Right not to attend religious education classes) | Attendance at any class for religious instruction is not compulsory for any student. A principal may require a parent of a student at a State school to notify whether or not the student is to attend any religious instruction provided by the school. |
| | Guardianship and Custody of Infants | TAS | Section 15 (Parents' beliefs | Upon any application by the parent for the production or custody of a child, if the Court is of opinion that the parent |

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| | Act 1934 | | allowed to influence guardianship of infants) | ought not to have the custody of the child, and that the child is being brought up in a different religion from that in which the parent has a legal right to require that the child should be brought up, the Court shall have power to make such order as it thinks fit to secure that the child is brought up in the religion in which the parent has a legal right to require that the child should be brought up. |
| | Status of Children Act 1974 | TAS | Section 3 (Protection against discrimination for parents' marital status) | <p>All children to be of equal before the law regardless of their parents' marital status:</p> <p>3(1) For all purposes of the law of the State the relationship between every person and his father and mother shall be determined irrespective of whether the father and mother are or have been married to each other and all other relationships shall be determined accordingly.</p> <p>(2) The rule of construction whereby in any instrument words of relationship signify only legitimate relationship in the absence of a contrary expression of intention is abolished.</p> <p>(3) For the purpose of construing any instrument the use, with reference to relationship of a person, of the words "legitimate" or "lawful" shall not, in the absence of intention to the contrary in such instrument, prevent the relationship from being determined in accordance with the provisions of subsection (1).</p> <p>(4) This section shall apply in respect of every person, whether born before or after the commencement of this Act, whether born in the State or not, and whether or not his father</p> |

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| | | | | or mother has ever been domiciled in the State. |
| | Youth Justice Act 1997 | TAS | Section 5 (Religious, ethnic and cultural considerations in youth justice) | <p>The general principles of youth justice mandate sensitivity to religious, ethnic and cultural considerations. (Youth are aged between 10 and 18.)</p> <p>The powers conferred by this Act are to be directed towards the objectives ... with proper regard to the [principle that] ... punishment of a youth is to be appropriate to the age, maturity and cultural identity of the youth;</p> <p>(2) Effect is to be given to the following principles so far as the circumstances of the individual case allow:</p> <p>...</p> <p>(b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened; or</p> <p>(c) a youth should not be withdrawn unnecessarily from his or her family environment; or</p> <p>(d) there should be no unnecessary interruption of a youth's education or employment; or</p> <p>(e) a youth's sense of racial, ethnic or cultural identity should not be impaired.</p> |
| | | TAS | Sections 11-13 (Ethnic and cultural | Formal cautions generally given by police. However, they may be given to Aboriginal people by an Aboriginal elder or to a member of another religious, ethnic or other community |

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| | | | considerations in caution procedure) | group by a representative of that group |
| | | TAS | Section 75 (Religious and cultural considerations in community service assigned) | In giving directions to a youth in relation to the youth's performance of community service, the assigned youth justice worker must: (a) avoid, if practicable: (i) conflicts with the religious and cultural beliefs and practices of the youth or his or her parent... |
| | | TAS | Section 129 (Religious and cultural considerations in you detention) | (1) A detainee is entitled:... (c) to have reasonable efforts made to meet his or her medical, religious and cultural needs including, in the case of a detainee who is an Aboriginal person, his or her needs as a member of the Aboriginal community; and |
| | | TAS | Section 132 (Discriminatory treatment in a youth detention centre is prohibited conduct) | The following actions are prohibited in relation to a detainee while in a detention centre: (f) the adoption of any kind of discriminatory treatment. |
| | | TAS | Sections 50, 112 and 127 (Language sensitivity in | These section require that explanations of any court decision, release order or rules of the detention are given in language youth can understand. |

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| | | | youth justice) | |

9. Australian Capital Territory

CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

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| | Adoption Act 1993 | ACT | Section 6 (Special requirements for children of indigenous origin) | <p>A person making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person must:</p> <p>(a) take into account the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community; and</p> <p>(b) seek and consider submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family; and</p> <p>(c) take into account Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.</p> |
| | | ACT | Section 9 (Mandatory considerations of race, ethnicity, religion, sex and | 9 (1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young |

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| | | | other matters) | <p>person:</p> <p>(a) the child’s or young person’s sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced; and</p> <p>...</p> <p>(c) the child’s or young person’s age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered</p> |
| | Crimes Act 1900 | ACT | Section 39 (General child rights protection) | <p>It is a crime carrying a maximum penalty of 200 penalty units, imprisonment for 2 years or both to:</p> <p>(a) ill-treat or abuse a child who is in the person’s care; or</p> <p>(b) neglect a child for whom he or she is caring or has parental responsibility.</p> <p>A person is not guilty of an offence referred to in subsection (b) by reason only of failing to provide a thing for a child if the person did not provide the thing because he or she could not afford to do so.</p> |
| | | ACT | Section 75 (FGM a crime with no religion or belief based carve out) | <p>A person shall not take a child from the ACT, or arrange for a child to be taken from the ACT, with the intention of having female genital mutilation performed on the child.</p> <p>Maximum penalty: imprisonment for 7 years.</p> |

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| | Disability Services Act 1991 | ACT | Section 6(2) (Human rights afforded to disabled people) | All grants given by the Minister under the Disability Act must further a set of rights principles set out in Schedule 1 of the Act. |
| | Discrimination Act 1991 | ACT | Section 7 (the grounds of which a person must not discriminate) | <p>The Act applies to discrimination on the ground of any of the following attributes:</p> <ul style="list-style-type: none"> (a) sex; (b) sexuality; (c) gender identity; (d) relationship status; (e) status as a parent or carer; (f) pregnancy; (g) breastfeeding; (h) race; (i) religious or political conviction; (j) disability; (k) industrial activity; (l) age; |

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| | | | | <p>(m) profession, trade, occupation or calling;</p> <p>(n) association (whether as a relative or otherwise) with a person identified by reference to an attribute referred to in another paragraph of this subsection; and</p> <p>(o) spent conviction within the meaning of the Spent Convictions Act 2000.</p> <p><i>[Note: No specific protection against discrimination based on colour, language, property or birth]</i></p> |
| | | ACT | Section 7 (definition of discrimination) | <p>A person discriminates against another person if:</p> <p>(a) the person treats or proposes to treat the other person unfavourably because the other person has an attribute referred to in section 7; or</p> <p>(b) the person imposes or proposes to impose a condition or requirement that has, or is likely to have, the effect of disadvantaging people because they have an attribute referred to in section 7</p> |
| | | | Sections 10, 18 - 23 (General areas in which discrimination is unlawful) | <p>It is unlawful to discriminate in :</p> <p>employment - e.g. in the arrangements made for the purpose of deciding who should be offered employment, deciding who should be offered employment, or in the terms or conditions on which employment is offered;</p> <p>education - e.g. by failing to accept the person's application for admission as a student or in the terms or conditions on</p> |

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| | | | | <p>which it is prepared to admit the person as a student;</p> <p>access to premises - e.g. by refusing to allow the other person access to, or the use of, any premises;</p> <p>providing goods and services;</p> <p>providing accommodation;</p> <p>in allowing access to club memberships; or</p> <p>facilitating requests for information.</p> |
| | | | Section 11 (Discrimination and religious practice) | <p>It is unlawful for an employer to discriminate against an employee on the ground of religious conviction by refusing the employee permission to carry out a religious practice during working hours, being a practice:</p> <p>(a) of a kind recognised as necessary or desirable by people of the same religious conviction as that of the employee; and</p> <p>(b) the performance of which during working hours is reasonable having regard to the circumstances of the employment; and</p> <p>(c) that does not subject the employer to unreasonable detriment.</p> |
| | | | Section 27 (positive discrimination) | <p>It is not unlawful to do an act if a purpose of the act is:</p> <p>(a) to ensure that members of a relevant class of people have</p> |

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| | | | generally) | <p>equal opportunities with other people; or</p> <p>(b) to give members of a relevant class of people access to facilities, services or opportunities to meet the special needs they have as members of the relevant class, provided that the act does not discriminate against a member of the relevant class in a way that is not reasonable for the achievement of that purpose.</p> |
| | | | Sections 28 - 31 (General areas in which discrimination is allowed) | <p>General areas in which discrimination is not unlawful:</p> <p>(a) insurance, if the discrimination is reasonable in the circumstances, having regard to any actuarial or statistical data;</p> <p>(b) in the terms or conditions relating to a superannuation or provident fund or scheme;</p> <p>(c) in respect of acts done under statutory authority</p> |
| | | ACT | Section 32-33; 44 and 46 (Where the state will allow discrimination on the basis of religion) | <p>Discrimination is not unlawful:</p> <p>(a) in respect of any act or practice of a body established for religious purposes, if the act or practice conforms to the doctrines, tenets or beliefs of that religion and is necessary to avoid injury to the religious susceptibilities of adherents of that religion (e.g. ordination of priests);</p> <p>(b) in relation to employment as a member of the staff of (or contract worker in) an educational institution if the institution is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed,</p> |

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| | | | | <p>and the first person so discriminates in good faith to avoid injury to the religious susceptibilities of adherents of that religion or creed;</p> <p>(c) in relation to the provision of education or training by an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, if the first person so discriminates in good faith to avoid injury to the religious susceptibilities of adherents of that religion or creed.</p> |
| | | ACT | Section 34-41 (Where the state will allow discrimination on the basis of sex and/or status) | <p>Discrimination is not unlawful if it is:</p> <p>(a) in relation to a position as an employee, commission agent, contract worker or partner if it is a genuine occupational qualification (as defined) for the position that the position be filled by a person of the opposite sex to the relevant person;</p> <p>(b) on the grounds of relationship status in relation to a job that is 1 of 2 jobs to be held by a couple in a domestic partnership;</p> <p>(c) at an educational institution that is conducted solely for students of the opposite sex to that of the applicant;</p> <p>(d) against a man on the ground of sex only because the person gives a woman rights or privileges in relation to pregnancy, childbirth or breastfeeding;</p> <p>(e) in relation to the provision of services the nature of which</p> |

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| | | | | <p>is such that they can only be provided to members of one sex;</p> <p>(f) on the ground of that person's sex if membership of the relevant club is available only to people of the opposite sex;</p> <p>(g) in relation to the exclusion of people of one sex from participation in any competitive sporting activity in which the strength, stamina or physique of competitors is relevant.</p> |
| | | ACT | Section 34-41 (Where the state will allow discrimination on the basis of race) | <p>Discrimination is not unlawful if it is:</p> <p>(a) on the ground of race in relation to a position as an employee, commission agent, contract worker or partner if it is a genuine occupational qualification for the position that the position be filled by a person of a different race to the relevant person (e.g. in entertainment, artistic casting, authentic ethnic food service or promoting welfare and providing services to a racial group); or</p> <p>(b) in relation to a club that has as its principal object providing benefits for people of a stated race if those people are described other than:</p> <p>(i) by reference to colour; or</p> <p>(ii) in a way that has the effect of excluding some members of that race on the basis of colour</p> |
| | | ACT | Section 47-55 (Where the state will allow discrimination on | <p>Discrimination is not unlawful if it is:</p> <p>(a) positive and related to employment - e.g. on the ground of disability in relation to certain kinds of employment (e.g.</p> |

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| | | | the basis of disability) | <p>authentic dramatic production, artistic modelling, providing services to another disabled person with services);</p> <p>(b) employment related but negative - e.g. on the ground of disability if the first person believes on reasonable grounds that, because of a disability—the second person is, or would be, unable to carry out work that is essential to the position concerned; or the second person requires, or would require, to carry out the work, services or facilities that would not be required by a person who does not have the disability and providing the services or facilities would impose unjustifiable hardship on the first person;</p> <p>(c) by an authority or body against a person on the ground of disability if the authority or body believes on reasonable grounds that, because of a disability, the person is, or would be, unable to carry out work that is essential to the position concerned;</p> <p>(d) in education - on the ground of disability in relation to a failure to accept a person’s application for admission as a student at an educational institution that is conducted solely for students with a disability that the applicant does not have or if the person, if so admitted, would require services or facilities that are not required by students who do not have a disability, the provision of which would impose unjustifiable hardship on the relevant educational authority.</p> <p>(e) relating to access to premises - if designed as to be inaccessible and any alteration of the premises to provide such access would impose unjustifiable hardship on the</p> |

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| | | | | <p>person who would have to provide that access;</p> <p>(f) in the provision of goods and services - because of a person's disability, the goods, services or facilities would have to be provided in a special way; and their provision in that way would impose unjustifiable hardship on the person providing,</p> <p>(g) in clubs - to provide positive discrimination in favour of the disabled;</p> <p>(h) in clubs - negative discrimination in relation to the enjoyment of any benefit provided by a club if because of the person's disability, the benefit would have to be provided to the person in a special way; and the provision of the benefit in that way would impose unjustifiable hardship on the club.</p> |
| | | ACT | Section 57A-57M (Discrimination relating to age/ legal incapacity which is expressly allowed) | <p>Discrimination is not unlawful if it is:</p> <p>(a) against a person on the ground of age in relation to certain forms of employment or work that involves any of the following activities (e.g. (e.g. authentic dramatic production, artistic modelling, providing services to people of a particular age group);</p> <p>(b) it is relates to youth wages i.e. if an award provides for the payment of reduced wages to employees under 21 years old;</p> <p>(c) if the discrimination is practised to comply with reasonable health and safety requirements relevant to the</p> |

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| | | | | <p>employment or work;</p> <p>(d) on the ground of age in relation to the admission of the person to an educational institution if the level of education or training sought is provided only for students older than a particular age;</p> <p>(e) on the ground of age in relation to a transaction if the person is subject to a legal incapacity because of his or her age and the incapacity is relevant to the transaction;</p> <p>(f) in relation to the provision of genuine benefits, including concessions, to someone else because of his or her age;</p> <p>(g) on the ground of age in relation to the provision of goods, services or facilities if that discrimination is practised to comply with reasonable health and safety requirements relevant to such provision;</p> <p>(h) on the ground of age in relation to the provision of a recreational tour or recreational accommodation;</p> <p>(i) on the ground of age if the club's principal object is providing benefits for people belonging to a particular age group; and</p> <p>(j) on the ground of age by his or her exclusion from participation in any competitive sport if competition is only allowed between people belonging to a particular age group.</p> |
| | Education Act | ACT | Section 18 (a) | The ACT government school system is based on the |

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| | | | (Non-discrimination first principle of Education Act) | principles of equity, universality and non-discrimination |
| | | ACT | Section 12A (home schooling approval may be based on racial, ethnic or religious identity considerations) | To be home schooled a child must have an exemption certificate. The director-general may issue an exemption certificate for a child if the director-general is satisfied on reasonable grounds that it is in the child's best interests to issue the certificate and in doing so they may consider: (c) the child's sense of racial, ethnic, religious or cultural identity; |
| | | | Section 14A (training or employment alternative approval may be based on racial, ethnic or religious identity considerations) | Approval for the child's participation in training or employment alternative post year 10 - also requires a certificate issued with reference to the child's best interests, including: (c) the child's sense of racial, ethnic, religious or cultural identity |
| | | | Section 28 and 29 (Non-discrimination and religion in education) | 28 Secular education (1) Education in government schools is to be non-sectarian, secular education. (2) Secular education in government schools may include the study of different religions as distinct from education in a |

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| | | | | <p>particular religion.</p> <p>29 Religious education</p> <p>(1) If parents of children at a government school ask the principal for their children to receive religious education in a particular religion, the principal must ensure that reasonable time is allowed for their children’s religious education in that religion.</p> <p>(2) The principal must ensure that the educational program continues for students at the school not attending religious education.</p> <p>(3) Religious education must be authorised by the religious body to which the person providing the instruction belongs.</p> <p>(4) Students attending a religious education class at a government school must be separated from other students at the school while the class is held.</p> <p>(5) In this section:</p> <p><i>religious education</i> means education in a particular religion as distinct from the study of different religions.</p> |
| | Human Rights Act 2004 | ACT | Section 8(2) (Recognition of human rights to be enjoyed without | Everyone has the right to enjoy his or her human rights without distinction or discrimination of any kind. |

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| | | | discrimination) | |
| | | ACT | Section 8(3) (Recognition of equality before the law) | Everyone is equal before the law and is entitled to the equal protection of the law without discrimination. In particular, everyone has the right to equal and effective protection against discrimination on any ground. |
| | | ACT | Section 11(2) (Protection of the family and children) | Every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind. |
| | | ACT | Section 31 (Application of HRA) | So far as it is possible to do so consistently with its purpose, a Territory law must be interpreted in a way that is compatible with human rights. |
| | Parentage Act 2004 | ACT | Section 38 and 39(2) (Children all of equal status) | <p>This section applies if the relationship of a person with his or her parents, or with either of them, is to be decided under a Territory law, whether in a proceeding before a court or otherwise.</p> <p>The relationship must be decided without regard to whether the parents of the person are or have ever been married to, or in a civil union or civil partnership with, each other.</p> <p>All other relationships of or to the person, whether of consanguinity or affinity, must be decided in the same way. (Where affinity means affinity derived through marriage, civil union, civil partnership or any other domestic partnership.)</p> <p>Any rule of law that a disposition in favour of an ex-nuptial</p> |

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| | | | | child not conceived or born when an instrument takes effect is void for being contrary to public policy is abolished. |