

# **Period Products and Facilities (Access) Bill 2022**

## **Explanatory Statement**

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## Introduction

This explanatory statement relates to the *Period Products and Facilities (Access) Bill 2022*.

The explanatory statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## Overview

The *Period Products and Facilities (Access) Bill 2022* is a bill to improve access to period products for those in need in the community and to improve access to period management facilities in various parts of the Territory Government funded workforce.

The Bill establishes requirements for the Government to provide free period products of various types in designated places in the community and to designated community partners for distribution for those who might otherwise struggle to acquire them.

The Bill requires the Government to provide information about menstruation and about safe, healthy management of periods in multiple languages and to make this information freely available.

The Bill requires the Government to make period products and associated information available in all government schools.

The Bill requires non-government education providers to supply period products to those students in need at the education providers premises.

Period Poverty is one of the social and economic issues which our society often struggles to deal with. Stigma and taboo often lead to a lack of information and a person seeking help. This issue often isn't discussed and the struggles of people who fall into the category of experiencing period poverty are often overlooked.

The Bill requires the ACT Public Service (ACTPS) to provide appropriate handwashing, sanitary waste and other period management facilities in ACTPS workplaces.

The Bill requires entities undertaking territory-funded work to provide appropriate handwashing, sanitary waste and other period management facilities in their workplaces.

Issues were raised during the drafting of the legislation about difficulties accessing appropriate facilities in some industries.

## Consultation Undertaken

A consultation draft of the *Period Products and Facilities (Access) Bill 2022*, in its former version the *Period Products (Access) Bill 2022*, was released for public consultation on Wednesday 15 December 2021.

Extensive consultation was undertaken with community members, not for profit organisations, Union members and their representatives and others. This consultation resulted in many

changes which has led to the Bill being developed to the form it is currently in for introduction.

## Human Rights Compatibility

The Bill engages human rights:

- Recognition and equality before the law
- Right to education
- Right to work and other work related rights

### Rights Promoted

The Bill promotes the rights of those who menstruate to education, work and from discrimination at work as per sections 27A and 27B of the Human Rights Act 2004.

Studies have shown that period poverty has a detrimental impact on access to education and work for those who experience it. The most comprehensive survey on the issue, the *Big Bloody Survey* by Share the Dignity in 2021, found that 15% of ACT residents who menstruate have experienced period poverty at some point.

This study showed that 41% of those who menstruate report having missed work due to management of their period.

This study also showed that 48% of those who menstruate report having missed education due to management of their period.

The Bill will reduce instances where one's right to education is impeded upon due to being unable to manage one's period properly while in an educational setting.

The Bill will reduce instances where one's right to work is impeded upon due to being unable to manage one's period properly while in an employment setting.

The Bill will reduce discrimination against those who menstruate at work by ensuring equal access to adequate bathroom and sanitary facilities.

### Rights Limited

No rights are limited by the Bill.

### Proportionality

Not applicable.

## Outline of the Provisions of the Bill

### **PART 1                      PRELIMINARY**

#### **Clause 1                      Name of Act**

This clause sets out the name of the Act.

**Clause 2      Commencement**

This clause sets out that the Act commences on a day fixed by the Minister by written notice within 6 months of notification.

**Clause 3      Dictionary**

This clause states that the dictionary at the end of the Bill is, once enacted, part of the Act.

**Clause 4      Notes**

This clause states that a note included in the bill is explanatory and, once enacted, is not part of the Act.

**Clause 5      Objects of Act**

This clause sets out the objects of the Act. There are many people in the Canberra community who experience period poverty. They either lack the financial means, facilities or knowledge to manage their periods when they need to. This includes lack of access to actual period products but also information about hygienic period management and reasonable access to appropriate facilities while at work.

The object of the Act is to address these issues through provision of products, information and requirements about facilities in workplaces.

**Clause 6      Meaning of *period poverty***

This clause defines the term *period poverty* for the Act.

**PART 2      ACCESS TO PERIOD PRODUCTS**

**Division 2.1      Access in the community**

**Clause 7      Access to period products at suitable places**

This clause sets out an obligation for the Minister to ensure that period products are available at places listed on the suitable places list for the community. It also sets out that access arrangements must be adhered to by both government and non-government entities approved to supply provided period products.

**Clause 8            Suitable places for accessing period products**

This clause sets out a requirement for the Director-General to maintain a list of suitable places, as referenced in clause 7. This clause also sets out that an approved suitable place per section 10 is responsible for ensuring access arrangements are adhered to as per clause 9. This clause also sets out places that must be included and notes that the list shall be a notifiable instrument.

**Clause 9            Access arrangements**

This clause sets out a requirement for the Director-General to create access arrangements for all places on the previously mentioned suitable places list. This arrangement must include how the products will be accessed with privacy and dignity and that the arrangement must also include a range of products to be provided.

**Clause 10          Approving places for inclusion on the suitable places list**

This clause allows for entities who provide community services to apply to be included as an additional place on the suitable places list. The Director-General will provide approval guidelines and will have the ability to approve or deny an application. Annual reporting by approved entities to the Director-General is required.

**Clause 11          Approval guidelines**

This clause sets out the information that the Director-General must include in the approval guidelines at section 10. This clause also requires the guidelines to be a notifiable instrument.

**Division 2.2      Access for Students**

**Clause 12          Access to period products on education provider premises**

This clause sets out that all education providers must make period products available for students on their premises and adhere to the applicable access arrangements. The definition of education provider is set out in the dictionary and seeks to encompass all education providers from primary school through to tertiary education.

**Clause 13          Access arrangements – government schools**

This clause sets out the requirement for the appropriate Director-General to make arrangements for access at government schools and the information these access arrangements must include. These access arrangements must be notified publicly.

**Clause 14          Access arrangements – other education provider premises**

This clause outlines the requirements that education providers other than government schools. Providers must make access arrangements in writing to students and provide period products as per those access arrangements. Section 3 of clause 14 outlines information to be included in these written access arrangements.

### **PART 3           WORKPLACE ACCESS TO FACILITIES**

#### **Clause 15       Definitions – pt 3**

This clause sets out the definitions of *territory-funded work* and *workplace* for the purposes of this part.

#### **Clause 16       Workplace access to facilities**

This clause sets out a requirement that all workplaces funded through contractual or other methods by the ACT Government, including ACTPS workplaces, must provide access to appropriate facilities for management of one's period including toilets, handwashing facilities and sanitary waste facilities.

Additionally this clause sets out that the access must respect the dignity of the person and be consistent with appropriate guidelines set out at clause 19.

#### **Clause 17       Reporting lack of access by public employees**

This clause outlines a complaint mechanism that can be used by ACTPS employees in the case that conditions set out for workplaces in clause 16 are not adequately provided in an ACTPS workplace.

A public servant can make a report, or a representative of the public servant or appropriate person can make a report to the appropriate director-general to resolve the issue. An employee of a territory instrumentality, or their representative or appropriate person, can make a report to the person in charge of their employment to resolve the issue.

### **PART 4           INFORMATION AND GUIDELINES**

#### **Clause 18       Information about menstruation**

This clause requires the Director General to provide publicly available information about safe and healthy period management. This information must be provided in English and languages other than English which are commonly used by people at risk of period poverty in the ACT. This information must also be provided in appropriate ways for different age groups.

A lack of understanding or information can be a cause of period poverty if one does not have access to appropriate education about safely and healthily managing their period. This

clause aims to reduce the prevalence of this form of period poverty in the ACT community.

**Clause 19      Access guidelines**

This clause sets out what the Director-general needs to include in an access guideline which is published in order to guide entities with adhering to the requirements of those entities when undertaking ACT Government funded work as per clause 16.

These guidelines will be industry or sector specific and will be a notifiable instrument.

**PART 5           MISCELLANEOUS**

**Clause 20      Report on operation of Act**

This clause notes that a statement about the operation of the Act and information about reports made about workplace access to facilities for public employees, as at clause 17, must be included in an agencies annual report.

**Clause 21      Review of operation of Act**

This clause notes that the Minister must review the Act ever 3 years and make a report about this review to the Legislative Assembly.

**Clause 22      Regulation making power**

The Executive may make regulations for this Act.

**Dictionary**

The dictionary defines terms used in the Act.