

**Period Products (Access) Bill 2022**  
**Supplementary Explanatory Statement**

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## Introduction

This revised explanatory statement relates to the *Period Products (Access) Bill 2022* (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

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.

## Background

Period poverty is more pervasive in the ACT community than is commonly realised and the impacts of period poverty are significant. Not being able to access sanitary products and hygiene facilities leaves people feeling stressed and ashamed and will often lead to their withdrawal from regular activities until their period is over. This can mean withdrawing from school classes, work, or social activities at the detriment to the person menstruating.

The reasons a person experiences period poverty can be complex and result from one or a combination of more than one contributing factor. The experience of period poverty can be short term in nature for example because of a crisis event which is then resolved or sustained over a longer term for example because of ongoing financial hardship or cultural practices that create shame and stigma preventing people accessing the products, facilities, or information they need to manage their period.

## Overview

The *Period Products and Facilities (Access) Bill 2022* is a bill to reduce and prevent period poverty in the ACT by, providing free access to period products at “suitable places”, and by providing information on menstruation and menstrual hygiene and by improving access to toilet facilities.

The Bill defines what constitutes period poverty and sets out a framework for the provision of period products at “suitable places” across the ACT. The Bill establishes a process for designating “suitable places” and for community partners to join as a “suitable place”. The Bill outlines requirements for the provision of period products in ACT Government schools and other learning institutions. The Bill outlines requirements for the provision of toilet and hygiene facilities by the ACT Government and Territory Funded entities. The Bill establishes the requirement for information regarding menstruation and menstrual hygiene to be made available to the community.

It is intended that period products and facilities provided under the Bill are supplied in a way or ways that respect and uphold the dignity of the person accessing them.

## 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.

An inquiry by the Standing Committee on Health and Community Wellbeing Committee provided further opportunity for public consultation and parliamentary scrutiny. The Standing Committee on Justice and Community Safety Committee (Legislative Scrutiny Role) provided comment on the Bill. Further amendments to the Bill, a supplementary explanatory statement for the proposed amendments and this revised explanatory statement have been proposed following feedback from these processes.

## Human Rights Compatibility

The Bill engages human rights compatibility considerations.

### 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*.

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.

The Bill promotes the right to privacy as per section 12 of the *Human Rights Act 2004* by requiring the provision of products and facilities under the bill in a way that respects the dignity of the person accessing them and in accordance with the requirements of the *Information Privacy Act 2014*.

### Rights Limited

The very act of asking a person to identify as requiring period products or access to facilities could be considered a breach of privacy as it is requiring the person to identify their personal

circumstances. The Bill could therefore be considered to limit the privacy of people accessing period products and facilities therefore engaging section 12 of the Human Rights Act 2004.

### **Proportionality**

The objective of the Bill is to provide period products and facilities to those who need them so that there is no reason a person would have to withdraw from their regular activities to manage their period.

While providing products and facilities for people experiencing period poverty promotes several rights regarding participation in society it could also result in people having their right to privacy limited through the disclosure of their circumstance or personal information.

To minimise the potential for rights to be limited the design of the scheme has been very conscious to limit the need for disclosure of personal information or circumstance to access the products and facilities covered by the Bill.

By making products available at suitable places across the ACT people will be able to access the products simply by attending the physical site of the suitable place. Given these sites are places of regular activity e.g., a public library, there is no reason for people accessing them to be singled out to gain entry or identified as only accessing that place to get products. In addition, there is no requirement under the provisions of the Bill that anyone accessing products from a suitable place provide personal information or meet a specified criteria to access those products.

The inclusion of community partners as suitable places provides an additional avenue for respectfully accessing the scheme as people already in contact with the service will have existing trusted relationships through which they can raise their needs. Providing access in this way minimises the need to approach a service or government authority that is unknown to people accessing the scheme.

While suitable places will be required to have access guidelines these are intended to provide guidance on the implementation of the scheme at each suitable place. The provisions of the Bill do not require any criteria or test for individuals accessing the scheme to be developed as part of the accessibility guidelines as this would be against the intent of the Bill and the function of the guidelines.

Reporting workplace facilities which do not meet the requirements of the Bill is another area where individuals could have their privacy impinged by default of having to make the report. To provide for sensitive and confidential ways to make the report the Bill provides for a union representative or a representative of the Work Health and Safety Committee to make the report so that the need for individuals to disclose of personal information or circumstances is minimised.

Ultimately the Bill promotes and upholds several human rights by enabling the full participation of people who menstruate in society. While considerations of privacy are required, these can be mitigated so that any limitation of people's right to privacy is minimised to an extent that the impact of the scheme does not outweigh the benefit.

## **Outline of the Provisions of the Bill**

### **AMENDMENT 1**

#### **Proposed new clause 5A**

#### **Page 3, line 10 –**

This is a new clause and requires that in exercising a function under the Bills principles recognising the many reasons period poverty is experienced are taken into account. This clause further recognises that not every person who menstruates identifies as a woman. It is important to make this acknowledge as the needs of people who menstruate extend beyond binary gender norms and practices and to meet the objectives of the Bills measures will need to respond to all people who menstruate. Further, the Clause requires that a person accessing period products under the Bill is entitled to privacy.

This amendment has been made following feedback during the committee inquiry process.

### **AMENDMENT 2**

#### **Clause 7 (1)**

#### **Page 4, line 5**

This is a minor amendment to provide drafting consistency.

### **AMENDMENT 3**

#### **Clause 8 (1)**

#### **Page 4, line 19**

This is a minor amendment to provide drafting consistency.

### **AMENDMENT 4**

#### **Clause 9 (3) and examples**

#### **Page 5, line 7**

This amends clause 9 to reflect the insertion of clause 5A.

## **AMENDMENT 5**

### **Clause 12 (1)**

#### **Page 7, line 5**

This is a minor amendment to provide drafting consistency.

## **AMENDMENT 6**

### **Clause 13 (2) and examples**

#### **Page 7, line 15**

This amends clause 13 to reflect the insertion of clause 5A.

## **AMENDMENT 7**

### **Clause 13 (3)**

#### **Page 7, line 26**

This is a minor amendment to provide drafting consistency.

## **AMENDMENT 8**

### **Clause 14 (3) and examples**

#### **Page 8, line 8**

This amends clause 14 to reflect the insertion of clause 5A.

## **AMENDMENT 9**

### **Clause 14 (4) and examples**

#### **Page 8, line 18**

This is a minor amendment to provide drafting consistency.

## **AMENDMENT 10**

### **Proposed new division 2.3.**

**Page 8, line 19**

#### **Division 2.3      Access for patients and visitors**

##### **Clause 14A      Meaning of *hospital* -div 2.3**

This is a new clause and defines the meaning of *hospital* for the purposes of this division.

##### **Clause 14B      Access to period products on hospital premises**

This is a new clause and sets out that the Director-General of the *Health Act 1993* must ensure period products are made available on hospital premises for patients and visitors experiencing period poverty and adhere to the applicable access arrangements. Hospitals are included in their own section of the Bill due to the increased likelihood for patients and visitors to hospitals to experience period poverty as well as the unique nature of hospital premises and associated legislative and governance arrangements.

##### **Clause 14C      Access arrangements - hospitals**

This is a new clause and sets out the requirement for the Director-General administering the *Health Act 1993* to make access arrangements for patients and visitors to access period products on hospital premises. This section is included to make it clear that even though hospitals are included in the Bill through a provision other than the suitable places list access arrangements are still required. The requirements and intentions of access arrangements under this clause are consistent with those for the access arrangements for places on the suitable places list as outlined in clause 9.

## **AMENDMENT 11**

### **Clause 16 (2)**

**Page 9, line 12**

This amends clause 16 to reflect the insertion of clause 5A.

## **AMENDMENT 12**

### **Proposed new clause 17A**

#### **Page 10, line 7**

#### **Clause 17A Response to s 17 report**

This is a new clause and sets out the obligations for a response to a report made under the provisions of clause 17.

This amendment has been made following feedback during the committee inquiry process.

## **AMENDMENT 13**

### **Clause 18**

#### **Page 11, line 2**

This amends clause 18 to specify in addition to information being provided online, there are hard copies of the information that are also made available at various locations. Examples of the type of information that could be provided have also been included.

This amendment has been made following feedback during the committee inquiry process.

## **AMENDMENT 14**

### **Proposed new clause 19 (1A)      Access guidelines**

This is a new clause to reflect the insertion of clause 5A.

## **AMENDMENT 15**

### **Clause 20 (2)**

#### **Page 12, line 6**

This amendment requires responses made about workplace access to facilities for public employees, under clause 17, be included in an agencies annual report.



**AMENDMENT 16**

**Dictionary, definition of access arrangements, proposed new paragraph (d)**

**Page 13, line 20**

This amendment adds the definition of *hospital premises* to definition of access arrangements in the Bills dictionary.

**AMENDMENT 17**

**Dictionary, proposed new definition of *hospital***

**Page 14, line 14**

This amendment adds the definition of *hospital premises* used in the Bill to the Bills dictionary.

**AMENDMENT 18**

**Dictionary, proposed new definition of *principles of dignity***

**Page 14, line 22**

This amendment adds the definition of *principles of dignity* to the Bills dictionary.