



Equal Employment Opportunity (Commonwealth Authorities) Act 1987

No. 20, 1987

Compilation No. 9

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About this compilation

This compilation

This is a compilation of the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987* that shows the text of the law as amended and in force on 19 June 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to require certain Commonwealth authorities to promote equal opportunity in employment for women and persons in designated groups and for related purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*.

2 Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

authority means:

- (a) an incorporated or unincorporated body or authority established for a public purpose:
 - (i) by an Act or by regulations made under an Act; or
 - (ii) by or under a law of a Territory (other than a law of the Australian Capital Territory or the Northern Territory);being a body whose staff consists of, or includes, persons who are not APS employees; or
- (b) a company or other body corporate incorporated under a law of the Commonwealth, of a State or of a Territory, being a company or body corporate in which the Commonwealth has a controlling interest;

but does not include a relevant employer as defined in section 3 of the *Workplace Gender Equality Act 2012*.

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designated group means any of the following classes of persons:

- (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;
- (b) persons who have migrated to Australia and whose first language is not English, and the children of such persons;
- (c) persons with a physical or mental disability;
- (d) any other class of persons prescribed by the regulations for the purposes of this definition.

discrimination means:

- (a) discrimination that is unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*; or
- (b) discrimination by which a person with a physical or mental disability is, because of the disability, treated less favourably than a person without the disability.

employee means a natural person appointed or engaged:

- (a) under a contract of service, whether on a full-time, part-time, casual or temporary basis; or
- (b) under a contract for services.

employment matters includes:

- (a) recruitment procedure, and selection criteria, for appointment or engagement of persons as employees;
- (b) promotion and transfer of employees;
- (c) training and staff development for employees; and
- (d) conditions of service of employees.

operative day, in relation to an authority, means the day specified in relation to that authority in subsection 5(2).

overseas means outside Australia.

program, in relation to a relevant authority, means an equal employment opportunity program designed to ensure that appropriate action is taken by the authority:

- (a) to eliminate discrimination by it against; and
 - (b) to promote equal opportunity for;
- women and persons in designated groups in relation to employment matters.

relevant authority means an authority that employs 40 or more employees in Australia.

responsible Minister, for a relevant authority, means:

- (a) if the regulations prescribe a Minister as responsible for the authority—that Minister; or
- (b) otherwise—the Minister responsible for the authority.

trade union means:

- (a) an organisation of employees registered pursuant to the *Fair Work (Registered Organisations) Act 2009*; or
- (b) a trade union within the meaning of a State Act or law of a Territory.

woman means a member of the female sex irrespective of age.

- (2) A reference to discrimination in relation to employment matters does not include a reference to discrimination that:
 - (a) is essential for the effective performance of the duties to which the employment matters relate; and
 - (b) is not unlawful under the *Racial Discrimination Act 1975* or the *Sex Discrimination Act 1984*.
- (3) For the purposes of this Act, an authority employs an employee in Australia if the contract, by which the employee is appointed or engaged, is made in Australia, notwithstanding that the employee may perform duties overseas.
- (4) Nothing in this Act shall be taken to require any action incompatible with the principle that employment matters should be dealt with on the basis of merit.

Part II—Programs

5 Relevant authorities required to develop etc. programs

- (1) A relevant authority shall commence the development and implementation of a program on the operative day.
- (2) The operative day is:
 - (a) in relation to an authority that is a relevant authority on 1 July 1987 or such later day as is prescribed—that day or that later day; and
 - (b) in any other case—the day on which an authority becomes a relevant authority.
- (3) A reference in paragraph (2)(b) to an authority becoming a relevant authority on a particular day includes a reference to an authority that comes into existence on that day.
- (4) Where, at any time, an authority ceases to be a relevant authority because the number of employees employed by it in Australia falls below 40, this Act continues to apply to the authority as if the authority was a relevant authority unless and until the number of employees employed by it in Australia falls below 30.

6 Contents of program

Without limiting the generality of the definition of *program* in subsection 3(1), the program of a relevant authority shall provide for action to be taken:

- (a) to inform employees of the contents of the program and of the results of any monitoring and evaluation of the program under paragraph (h);
- (b) to confer responsibility for the development and implementation of the program (including a continuous review of the program), on a person or persons having sufficient authority and status within the management of the

- relevant authority to enable the person or persons properly to develop and implement the program;
- (c) to consult with each trade union having members affected by the proposal for the development and implementation of the program in accordance with this Act;
 - (d) to consult with employees of the relevant authority, particularly employees who are women or persons in designated groups;
 - (e) for the collection and recording of statistics and related information concerning employment by the relevant authority, including the number of, and the types of jobs undertaken by, or job classifications of:
 - (i) employees of either sex; and
 - (ii) persons in designated groups;
 - (f) to consider policies, and examine practices, of the relevant authority, in relation to employment matters to identify:
 - (i) any policies or practices that discriminate against women or persons in designated groups; and
 - (ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women or persons in designated groups;
 - (g) to set:
 - (i) the particular objectives to be achieved by the program; and
 - (ii) the quantitative and other indicators against which the effectiveness of the program is to be assessed;
 - (h) to monitor and evaluate the implementation of the program and:
 - (i) to assess the achievement of those objectives; and
 - (ii) to assess the effectiveness of the program by comparing statistics and information collected and recorded under paragraph (e) with the indicators against which the effectiveness of the program is to be assessed.

7 Regard to be had to program

A relevant authority shall take any action necessary to give effect to its program and any person who exercises powers in relation to employment matters in the authority shall have regard to the program in exercising those powers.

Part III—Reports by relevant authorities

9 Annual program report

- (1) A relevant authority shall:
 - (a) prepare a report (in this section called a *program report*) on the development and implementation of its program during each period of 12 months commencing on the operative day in relation to the authority or the anniversary of that day; and
 - (b) lodge the report with the responsible Minister within 3 months after the end of the period to which the report relates.
- (2) A program report shall provide, in respect of the period to which it relates:
 - (a) a detailed analysis of the action taken by the relevant authority to develop and implement its program;
 - (b) the assessments referred to in paragraph 6(h); and
 - (c) particulars of each direction given by the Minister under section 12.
- (3) Where a relevant authority has lodged a program report with the responsible Minister, that Minister:
 - (a) shall, if the report fails to satisfy the requirements of this Act, by notice in writing, request the authority to lodge a further report, within such period as is specified in the notice; and
 - (b) shall, if the report or further report, as the case may be, satisfies the requirements of this Act, cause a copy of the report or further report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which that Minister receives the report or further report.
- (4) If:
 - (a) a relevant authority is required by an Act other than this Act to prepare an annual report for presentation to the Parliament; and

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- (b) the annual report is lodged with the responsible Minister within 3 months after the end of the period to which a program report relates;
- then the authority may, with the consent of the responsible Minister, include that program report in the annual report.
- (5) Where an authority ceases to be a relevant authority, this section continues to apply, in relation to the final period, as if:
- (a) references to the relevant authority were references to the authority; and
- (b) a reference to a period of 12 months were a reference to the final period.
- (6) In subsection (5), *final period* means the period beginning on the last anniversary of the operative day before the day on which the authority ceased to be a relevant authority and ending on that day.

10 Special report upon request

- (1) The responsible Minister may, by notice in writing to a relevant authority, require the authority to give the responsible Minister a special report within the time specified in the notice.
- (2) In this section, *special report* means a report in writing (other than a report under section 9) in relation to the development, implementation or review of the program of the authority.
- (3) A notice under sub-section (1) may specify the particular aspects of the program of the authority that are to be dealt with in the special report.
- (4) Where a relevant authority has lodged a special report with the responsible Minister, that Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

11 Minister may make recommendations

- (1) After considering a report lodged by a relevant authority under this Part, the responsible Minister may make a recommendation in writing to the authority regarding the action to be taken by the authority to improve the effectiveness of its program.
- (2) If the authority does not concur in or adopt a recommendation made under subsection (1), the authority must, within a reasonable time, inform the responsible Minister in writing of the authority's reasons for not concurring in or adopting the recommendation.

Part IV—Miscellaneous

12 Directions by Minister

- (1) The responsible Minister for a relevant authority may give general directions in writing to the authority about the performance of the authority's obligations under this Act.
- (2) Where, under an Act other than this Act, a relevant authority submits a corporate plan to its responsible Minister, that Minister may have regard to that authority's obligations under this Act and, if that Minister considers that the corporate plan should be revised for the purposes of giving effect to those obligations, shall direct the authority in writing to revise the corporate plan accordingly.
- (3) For the purposes of subsection (2), *corporate plan* means a plan, however described, prepared by the relevant authority defining the principal objectives of the authority and outlining the policies or strategies to be pursued by the authority in achieving those objectives.

15 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Equal Employment Opportunity (Commonwealth Authorities) Act 1987	20, 1987	18 May 1987	1 July 1987 (s 2 and gaz 1987, No S142)	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 424–433): 5 Dec 1999 (s 2(1), (2))	—
Equal Opportunity for Women in the Workplace Amendment Act 1999	183, 1999	22 Dec 1999	Sch 1 (item 28): 1 Jan 2000 (s 2(2))	—
Wool Services Privatisation Act 2000	145, 2000	7 Dec 2000	Sch 1 (item 2): 1 Jan 2001 (s 2(2) and gaz 2000, No S638)	—
Workplace Relations Legislation Amendment Act 2002	127, 2002	11 Dec 2002	Sch 3 (item 18): 14 Feb 2003 (s 2(1) item 9)	—
Dairy Industry Service Reform Act 2003	32, 2003	15 Apr 2003	Sch 1 (items 115, 127–129): 1 July 2003 (s 2(1) item 2)	Sch 1 (items 127–129)
Equal Opportunity for Women in the Workplace Amendment Act 2012	179, 2012	6 Dec 2012	Sch 1 (item 74): 6 Dec 2012 (s 2(1) item 2)	—
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 42, 43): 1 July 2016 (s 2(1) item 7)	—
Statute Update (Autumn 2018) Act 2018	41, 2018	22 May 2018	Sch 1 (item 3): 19 June 2018 (s 2(1) item 2)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part I	
s 3	am No 146, 1999; No 145, 2000; No 127, 2002; No 32, 2003; No 176, 2012; No 33, 2016; No 41, 2018
s 4	rep No 33, 2016
Part III	
s 8	rep No 146, 1999
s 9	am No 146, 1999
s 10	am No 146, 1999
s 11	rs No 146, 1999
Part IV	
s 12	am No 146, 1999
s 13	rep No 146, 1999
s 14	rep No 146, 1999