

Queensland



ANTI-DISCRIMINATION AMENDMENT ACT 1994

Act No. 29 of 1994

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Queensland



Anti-Discrimination Amendment Act 1994

Act No. 29 of 1994

An Act to amend the *Anti-Discrimination Act 1991*, and for related purposes

[Assented to 28 June 1994]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Anti-Discrimination Amendment Act 1994*.

Commencement

2. This Act commences on 1 July 1994.

Acts amended

3. This Act amends the *Anti-Discrimination Act 1991* and the Acts mentioned in the Schedule.

Amendment of s 4 (Definitions)

4. Section 4—

insert—

‘**“forced retirement”** includes engaging in conduct with a view to causing a person to retire from particular work because of the person’s age;’.

Amendment of s 14 (Discrimination in the pre-work area)

5. Section 14(1)(c)—

omit, insert—

‘(c) in the terms of work that is offered, including, for example, a term about when the work will end because of a person’s age; or’.

Amendment of s 15 (Discrimination in work area)

6. Section 15—

insert—

‘(3) In this section—

“**dismissing**” includes ending the particular work of a person by forced retirement, failure to provide work or otherwise.’.

Replacement of s 32 (Compulsory retirement age)

7. Section 32—

omit, insert—

‘Retiring age for partners

‘**32.(1)** It is not unlawful in deciding who should be invited to become a partner in a partnership for a person to discriminate on the basis of age against someone else through a requirement that the other person—

- (a) must not be more than a specified age; or
- (b) must retire from a partnership at a specified age.

‘(2) It is not unlawful in any variation of the terms of a partnership for a person to discriminate on the basis of age against someone else through a requirement that the other person—

- (a) must not be more than a specified age; or
- (b) must retire from a partnership at a specified age.

‘(3) This section has effect despite section 291(2)(b)(iv) of the *Industrial Relations Act 1990*.’.

Amendment of s 64 (Application of Commonwealth occupational superannuation standard)

8. Section 64, ‘*Occupational Superannuation Standards Act 1987* of the Commonwealth’—

omit, insert—

‘*Occupational Superannuation Standards Act 1987* (Cwlth) or *Superannuation Industry (Supervision) Act 1993* (Cwlth)’.

Amendment of s 65 (Compliance etc. with Commonwealth legislation)**9.** Section 65(a)—

omit, insert—

‘(a) to comply with a Commonwealth Act (other than the *Occupational Superannuation Standards Act 1987* or *Superannuation Industry (Supervision) Act 1993*); or’.

Insertion of new s 106A**10.** After section 106—

insert—

‘Compulsory retirement age under legislation etc.

‘106A.(1) This Act has no effect on the imposition of a compulsory retirement age on—

- (a) a Supreme Court Judge; or
- (b) a District Court Judge; or
- (c) a Magistrate; or
- (d) a member of the Land Court; or
- (e) the President of the Industrial Court; or
- (f) an Industrial Commissioner under the *Industrial Relations Act 1990*; or
- (g) the Commissioner of Fire Service; or
- (h) a fire officer within the meaning of the *Fire Service Act 1990*; or
- (i) the chief executive of Queensland Railways; or
- (j) an employee of Queensland Railways; or
- (k) a police officer; or
- (l) a staff member within the meaning of Statute No. 14 (Staff tenure) made under the *University of Queensland Act 1965* while provisions under the Statute about compulsory retirement age are in force; or
- (m) a director of a public company or subsidiary of a public company;

or

(n) another person prescribed by regulation.

‘(2) Subsection (1) applies if the compulsory retirement age is imposed on or before 30 June 1994 under—

(a) an Act; or

(b) an award, certified agreement, enterprise flexibility agreement or industrial agreement within the meaning of the *Industrial Relations Act 1990*; or

(c) a policy, standard or other instrument of a unit of the public sector applying to an employee of the unit.

‘(3) If the compulsory retirement age is imposed under something mentioned in subsection (2)(b) or (c), then, by force of this subsection, a person mentioned in subsection (1) is required, and is taken always to have been required, to retire in accordance with the compulsory retirement age imposed.’.

Replacement of s 267 (Regulations)

11. Section 267—

omit, insert—

‘Regulations

‘**267.(1)** The Governor in Council may make regulations under this Act.

‘(2) A regulation may make provision about—

(a) the exercise of the Commissioner’s powers; and

(b) the Tribunal’s procedure; and

(c) the fees to be paid for making a complaint under Chapter 7 (Enforcement); and

(d) costs; and

(e) the fees and expenses to be paid to a person appearing as a witness in a proceeding under the Act.

‘(3) A regulation may provide that contravention of a regulation is an

offence and prescribe a maximum penalty for the offence of not more than 20 penalty units.’.

Insertion of new s 268

12. After section 267—

insert—

‘Transitional provisions about compulsory age retirement

‘268.(1) Subject to section 106A (Compulsory retirement age under legislation etc.), a provision of—

- (a) a previous industrial order; or
- (b) a previous industrial agreement; or
- (c) a previous public sector policy;

is of no effect so far as it requires, or requires or authorises the compelling of, a worker to retire on or after reaching a particular age.

‘(2) If a compulsory retirement age is—

- (a) set for a person on or before 30 June 1994 under section 32(1) (Compulsory retirement age) as in force on that day; or
- (b) specified for a person under a previous agreement;

then, by force of this subsection, the person is required, and is taken always to have been required, to retire in accordance with the compulsory retirement age set or specified unless the compulsory retirement age is subsequently waived by the relevant parties.

‘(3) Subject to section 106A, a previous provision of an Act is of no effect so far as it has the effect, apart from this subsection, of disqualifying, or requiring or authorising the disqualification of, a person from applying for or being appointed to an office or position or other work because the person has reached a particular age.

‘(4) Subject to section 106A, a previous provision of an Act is of no effect so far as it requires, or requires or authorises the compelling of, a person to end work on or after reaching a particular age.

‘(5) Subsections (1), (3) and (4) have effect despite section 106 (Acts done in compliance with legislation etc.).

‘(6) In this section—

“**previous agreement**” means any agreement in existence on 30 June 1994 other than a previous industrial agreement;

“**previous industrial agreement**” means a certified agreement, enterprise flexibility agreement or industrial agreement within the meaning of the *Industrial Relations Act 1990* in force on 30 June 1994;

“**previous industrial order**” means an order or award of a court or tribunal having power to fix minimum wages and other terms of employment in force on 30 June 1994.

“**previous provision of an Act**” means a provision of an Act in force on 30 June 1994;

“**previous public sector policy**” means a policy, standard or other instrument of a unit of the public sector applying to an employee of the unit in force on 30 June 1994.’.

Repeal

13. The *Public Office (Age Qualification) Act 1985* is repealed.

SCHEDULE**MINOR AMENDMENTS**

section 3

BUILDING SOCIETIES ACT 1985**1. Section 138(4), 2nd sentence—***omit.***COAL AND OIL SHALE MINE WORKERS'
SUPERANNUATION ACT 1989****1. Section 14—***omit.***CORRECTIVE SERVICES (ADMINISTRATION) ACT
1988****1. Section 40(1)—***omit, insert—*

‘**40.(1)** An officer of the Commission may elect to retire on or after turning 55.’.

SCHEDULE (continued)

CROWN EMPLOYEES ACT 1958**1. Section 3(2) and (3)(a)—**

omit.

DISPUTE RESOLUTION CENTRES ACT 1990**1. Section 2.7(d)—**

omit.

JUDGES (SALARIES AND ALLOWANCES) ACT 1967**1. Section 7(1)(e)—**

omit.

LANG PARK TRUST ACT 1962**1. Section 3(7)—**

omit.

2. Section 4(b)—

omit.

3. Section 4D(1), ‘shall,’ to ‘65 years’—

omit, insert—

‘may appoint a person’.

SCHEDULE (continued)

4. Section 4D(2), ‘and shall’ to ‘65 years’—*omit.***5. Section 4D(4)—***omit.***MINES REGULATION ACT 1964****1. Section 9(1), 2nd sentence, ‘but,’ to ‘membership of the Board’—***omit.***2. Section 18(2)(b)—***omit.***PARLIAMENTARY COMMISSIONER ACT 1974****1. Section 5(4)—***omit.***2. Section 7(10), ‘or has attained the age of 65 years’—***omit.***3. Section 8(5), ‘or has attained the age of 65 years’—***omit.*

SCHEDULE (continued)

- 4. Section 10(9), ‘unless the officer has attained the age of 65 years,’—**
omit.

PARLIAMENTARY SERVICE ACT 1988

- 1. Section 18(3) and (4)—**

omit.

- 2. Section 37(1)—**

omit, insert—

‘**37.(1)** An officer of, or an employee in, the Parliamentary Service may elect to retire from the Parliamentary Service on or after turning 55.’.

**PUBLIC SECTOR MANAGEMENT COMMISSION
ACT 1990**

- 1. Section 2.7(1)(b), ‘if the person has not attained the age of 65 years,’—**

omit.

**PUBLIC SERVICE MANAGEMENT AND
EMPLOYMENT ACT 1988**

- 1. Section 26(1)—**

omit, insert—

‘**26.(1)** An officer of the public service may elect to retire from the public service—

- (a) on or after turning 55; or

SCHEDULE (continued)

- (b) under the regulations or the standards or under a voluntary early retirement scheme approved by the Governor in Council.’.

QUEENSLAND LAW SOCIETY ACT 1952**1. Section 6B(3)(b)—**

omit.

2. Section 6P(3)(b)—

omit.

3. Section 36I(3)(b)—

omit.

RETAIL SHOP LEASES ACT 1984**1. Section 29(3)(b)—**

omit.

SOLICITOR-GENERAL ACT 1985**1. Section 5(3)(b)—**

omit.

2. Section 17(1)—

omit.

SCHEDULE (continued)

SUGAR INDUSTRY ACT 1991**1. Section 6.2(a)—**

omit.

SURVEYORS ACT 1977**1. Section 9—**

omit, insert—

‘Qualification of members

‘**9(1)** If under section 8 (Members of Board) a nominee for membership of the Board is required to be a surveyor, the nominee must have been registered as a surveyor for an aggregate total of at least 5 years.

‘**(2)** In this section—

“**registered**” as a surveyor means registered under this Act or the repealed Acts or both.’.

2. Section 14(3)(a), ‘attaining the age of 70 years or’—

omit.

WORKERS’ COMPENSATION ACT 1990**1. Section 3.7(1)—**

omit, insert—

‘**3.7(1)** The office of a Board member becomes vacant if the member—

(a) dies; or

(b) resigns from office by signed notice of resignation given to the

SCHEDULE (continued)

Minister; or

- (c) is absent from 3 consecutive meetings of the Board without the Board's leave and without reasonable excuse; or
- (d) becomes disqualified in a way prescribed by regulation; or
- (e) is removed from office by the Governor in Council.?