

# **ANTI-DISCRIMINATION AMENDMENT BILL 1994**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objectives of the Legislation**

The objectives of the Bill are:

- (a) To clarify existing provisions in the *Anti-Discrimination Act 1991* in order to effect the abolition of compulsory age retirement.
- (b) To maintain the status quo with respect to the compulsory retirement of the judiciary, magistrates, industrial commissioners, Queensland Police Service, Queensland Fire Service, directors of public companies, employees under the *Transport Infrastructure (Railways) Act 1991* and staff covered by the *University of Queensland Statute 14*.
- (c) To preserve pre-existing contractual arrangements insofar as those arrangements provide for a compulsory retirement age.
- (d) To allow existing and future partnership arrangements to provide for compulsory age retirement.

#### **Reasons for the Bill**

At the time the *Anti-Discrimination Act* was introduced, it contained a sunset clause (s.32) in relation to the imposition of compulsory age retirement and it was stated in Parliament that the intention of the sunset clause was to abolish compulsory retirement outright.

This Bill now gives effect to that stated intention by specifying the precise terms of the transition from a system in which compulsory retirement is the norm to a system in which compulsory retirement is abolished.

**Estimated Cost for Government Implementation**

None.

**Consultation**

- Judiciary (including Supreme and District Courts and Magistrates)
- Queensland Chamber of Commerce and Industry
- Insurance Council of Australia
- Association of Superannuation Funds of Australia
- Institute of Chartered Accountants
- Australian Society of Certified Practising Accountants
- Metal Trades Industry Association
- Australian Council of Trade Unions (Qld)
- Queensland Law Society Incorporated
- Bar Association of Queensland

**NOTES ON PROVISIONS**

*Clause 1* Short title

*Clause 2* Provides for the Act to commence on 1 July 1994.

*Clause 3* Provides for the amendment of the *Anti-Discrimination Act 1991* and the Acts in the Schedule.

*Clause 4* Defines “**forced retirement**” for the purposes of the Bill.

*Clause 5* Amends section 14(1)(c) to clarify that discriminating in terms of work that is offered includes discriminating by ending work because of a person’s age.

*Clause 6* Extends the meaning of “**dismissing**” for the purposes of s.15 (discrimination in the work area) where used in the section by including a definition of the word.

*Clause 7* Inserts a new s.32 which allows existing and future partnership arrangements to provide for compulsory age retirement.

*Clause 8* Amends s.64 to insert a reference to the *Superannuation Industry (Supervision) Act 1993* which will replace the *Occupational Superannuation Standards Act 1987* from 1 July 1994.

*Clause 9* Amends s.65 by inserting a reference to the *Superannuation Industry (Supervision) Act 1993* which will replace the *Occupational Superannuation Standards Act 1987* from 1 July 1994.

*Clause 10* Inserts a new section 106A which preserves certain statutory and other provisions under which compulsory retirement age is imposed on the persons mentioned in the clause.

*Clause 11* Omits the current s.267 and replaces it with a new section which reflects current drafting practices.

*Clause 12* Inserts a new section 268 (Transitional provisions about compulsory age retirement) which operates to abolish compulsory retirement age provisions of awards, industrial agreements, policies, standards and other instruments of a unit of the public sector in force on 30 June 1994. However it saves other contractual arrangements in existence on 30 June 1994.

Subject to the new s.106A (clause 10), it overrides the provisions of any Act which disqualifies a person from applying for or being appointed to a position or office or other work because the person has reached a particular age.

Subject to the new s.106A (clause 10), it overrides the provisions of any Act which requires a person to end work on or after reaching a particular age.

*Clause 13* Repeals the *Public Office (Age Qualification) Act 1985* which is now obsolete because of the *Anti-Discrimination Act 1991*.

## **SCHEDULE**

Omits provisions in the Acts listed in the Schedule which contain references to compulsory age retirement.