



# **Equal Employment Opportunity (Commonwealth Authorities) Act 1987**

**Act No. 20 of 1987 as amended**

This compilation was prepared on 11 December 2012  
taking into account amendments up to Act No. 179 of 2012

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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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** [see Note 1]

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

### **2 Commencement** [see Note 1]

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:

*Australia* includes the Territories to which this Act extends.

*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*.

*designated group* means any of the following classes of persons:

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- (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 *Conciliation and Arbitration Act 1904*; 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.

#### **4 Extension to certain external Territories**

- (1) This Act extends to the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.
- (2) If, and so long as, the regulations so prescribe, this Act extends to Norfolk Island.

## 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
  - (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

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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.



**Table of Acts**

**Notes to the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987***

**Note 1**

The *Equal Employment Opportunity (Commonwealth Authorities) Act 1987* as shown in this compilation comprises Act No. 20, 1987 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Equal Employment Opportunity (Commonwealth Authorities) Act 1987</i>	20, 1987	18 May 1987	1 July 1987 (see <i>Gazette</i> 1987, No. S142)	
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 424–433): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (a)	—
<i>Equal Opportunity for Women in the Workplace Amendment Act 1999</i>	183, 1999	22 Dec 1999	Schedules 1 and 3: 1 Jan 2000 Remainder: Royal Assent	—
<i>Wool Services Privatisation Act 2000</i>	145, 2000	7 Dec 2000	Schedule 1: 1 Jan 2001 (see <i>Gazette</i> 2000, No. S638) Remainder: Royal Assent	—
<i>Workplace Relations Legislation Amendment Act 2002</i>	127, 2002	11 Dec 2002	Schedule 3 (item 18): 14 Feb 2003 (see <i>Gazette</i> 2003, No. GN6)	—
<i>Dairy Industry Service Reform Act 2003</i>	32, 2003	15 Apr 2003	Schedule 1: 1 July 2003 (see <i>Gazette</i> 2003, No. S228) Remainder: Royal Assent	Sch. 1 (items 127–129)
<i>Equal Opportunity for Women in the Workplace Amendment Act 2012</i>	179, 2012	6 Dec 2012	Schedule 1 (item 74): Royal Assent	—

*Equal Employment Opportunity (Commonwealth Authorities) Act 1987*

### Act Notes

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- (a) The *Equal Employment Opportunity (Commonwealth Authorities) Act 1987* was amended by Schedule 1 (items 424–433) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.



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**Table of Amendments**

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ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

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Provision affected	How affected
<b>Part I</b>	
S. 3 .....	am. No. 146, 1999; No. 145, 2000; No. 127, 2002; No. 32, 2003; No. 176, 2012
<b>Part III</b>	
S. 8 .....	rep. No. 146, 1999
Ss. 9, 10.....	am. No. 146, 1999
S. 11 .....	rs. No. 146, 1999
<b>Part IV</b>	
S. 12 .....	am. No. 146, 1999
Ss. 13, 14.....	rep. No. 146, 1999

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Dairy Industry Service Reform Act 2003* (No. 32, 2003)

**Schedule 1**

**127 Dairy produce**

A product that is dairy produce, immediately before the commencement of this item, under paragraph (c) of the definition of *dairy produce* in subsection 3(1) of the *Dairy Produce Act 1986* is taken, after the commencement of this item, to continue to be dairy produce under that paragraph.

**128 Continuation of secrecy obligations**

Section 119 of the *Dairy Produce Act 1986* as in force before the commencement of this item continues to apply after the commencement of this item to a person who, immediately before the commencement of this item, was a person to whom that section applied as if the amendments to that section made by this Schedule had not been made.

**129 Final annual reports**

- (1) For the final reporting period, the directors of Dairy Australia Limited must, in relation to the Australian Dairy Corporation and the Dairy Research and Development Corporation, prepare the report referred to in section 9 of the *Commonwealth Authorities and Companies Act 1997*. The report may include such other matters as the directors consider appropriate.
- (2) For the purposes of this item, the final reporting period is to be treated as a financial year.
- (3) In this item:  
*final reporting period* means the period that:
  - (a) started on 1 July 2002; and
  - (b) ends at the commencement of this item.