



Affirmative Action (Equal Employment Opportunity for Women) Act 1986 (as amended up to Act No. 60 of 1996)

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Comments The original Act received Royal Assent 3 September 1986 and entered into force on 1 October 1986. The Act was renamed and updated by the [Equal Opportunity for Women in the Workplace Act 1999](#). This is an unofficial consolidation. The Act, No. 91 of 1986 was first commenced on 1 October 1986. The text here consolidated as in force on 8 December 1998. The latest amendment incorporated here is Act No. 60 of 1996 which was commenced on 25 November 1996.

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An Act to require certain employers to promote equal opportunity for women in employment, to establish the Affirmative Action Agency and the office of the Director of Affirmative Action, and for related purposes

Part I Preliminary

1.Short title^[1]

This Act may be cited as the Affirmative Action (Equal Employment Opportunity for Women) Act 1986.

2.Commencement¹

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:

affirmative action program, in relation to a relevant employer, means a program designed to ensure that:

(a) appropriate action is taken to eliminate discrimination by the relevant employer against women in relation to employment matters; and

(b) measures are taken by the relevant employer to promote equal opportunity for women in relation to employment matters.

Agency means the Affirmative Action Agency.

amalgamated institution means a higher education institution established after 31 December 1988 by the amalgamation of 2 or more institutions at least one of which was, immediately before the amalgamation, a higher education institution and a relevant employer.

authority means:

(a) a body (whether incorporated or not) established for a public purpose by or under a law of the Commonwealth or of a State or Territory, other than a higher education institution;

(b) the holder of an office established for a public purpose by or under a law of the Commonwealth or of a State or Territory; and

(c) an incorporated company over which the Commonwealth, a State, a Territory or a body referred to in paragraph (a) is in a position to exercise control.

appoint includes re-appoint.

club means an association (whether incorporated or not) of not less than 30 persons associated together for social, literary, cultural, political, sporting, athletic or other lawful purposes that:

(a) provides and maintains its facilities, in whole or in part, from the funds of the association; and

(b) sells or supplies liquor for consumption on its premises.

confidential report means a confidential report referred to in section 14.

discrimination means discrimination as defined in section 5, 6 or 7 of the Sex Discrimination Act 1984.

Director means the Director of Affirmative Action.

employer means an individual, or a body or association (whether incorporated or not), that employs an individual:

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

(b) under a contract for services; or

(c) as described in subsection (5) or (6).

employment matters includes:

(a) the recruitment procedure, and selection criteria, for appointment or engagement of persons as employees;

(b) the promotion and transfer of employees;

(c) training and staff development for employees; and

(d) conditions of service of employees.

higher education institution means a university, college of advanced education or other institution of tertiary education (other than a technical and further education institution within the meaning of the Employment, Education and Training Act 1988).

operative day, in relation to a relevant employer, means the day specified in relation to that employer in section 7.

public report means a public report referred to in section 13.

relevant employer means:

(a) a higher education institution that is an employer; or

(b) a natural person, or a body or association (whether incorporated or not), being the employer of 100 or more employees in Australia;

but does not include the Commonwealth, a State, a Territory or an authority.

trade union means:

(a) an association of employees that is an organisation within the meaning of the Workplace Relations Act 1996; 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) For the purpose of paragraph (b) of the definition of relevant employer in subsection (1):

(a) a corporation employs a person where the person is employed by another corporation which is a subsidiary of the first-mentioned corporation; and

(b) the question whether a corporation is a subsidiary of another corporation shall be determined as it would be determined for the purposes of the Companies Act 1981.

(3) Where, in accordance with section 4, this Act extends to Norfolk Island, a reference in this Act to Australia includes a reference to Norfolk Island.

(4) Nothing in this Act shall be taken to require a relevant employer to take any action incompatible with the principle that employment matters should be dealt with on the basis of merit.

(5) For the purposes of this Act, an elected trade union official is taken to be employed by the trade union, and not by any other employer, and this subsection has effect even if the rules of the trade union have an effect contrary to this subsection, or do not deal with the question at all.

(6) For the purposes of this Act, during any time when a Group Training Scheme:

(a) is receiving funding support from the Commonwealth Government; and

(b)has placed a trainee in employment with a host employer; and

(c)pays the trainee, and receives payments from the host employer, for the services rendered by the trainee to the host employer;

the trainee is taken to be employed by the Scheme and not by the host employer.

4Extension to Norfolk Island

If, and so long as, the regulations so prescribe, this Act extends to Norfolk Island.

5Application of Act

(1)Without prejudice to its effect apart from this section, this Act also has effect as provided by this section.

(2)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with trade and commerce:

(a)between Australia and a place outside Australia;

(b)between the States; or

(c)within a Territory, between a State and a Territory, or between two Territories.

(3)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with the provision of a broadcasting service specified in section 11 of the Broadcasting Services Act 1992.

(4)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to an affirmative action program were, by express provision, confined to a program for the gathering of statistics and related information concerning employment by a relevant employer.

(5)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with the business of banking, other than State banking that does not extend beyond the limits of the State concerned.

(6)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with the business of insurance, other than State insurance that does not extend beyond the limits of the State concerned.

(7)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to a relevant employer were, by express provision, confined to a relevant employer that is a foreign corporation, or a trading or financial corporation formed within the limits of the Commonwealth.

(8)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment by a relevant employer were, by express provision, confined to employment by a trading or financial corporation formed within the limits of the Commonwealth, being employment in connection with the trading or financial activities, as the case may be, of that corporation.

(9)By virtue of this subsection, this Act has the effect it would have to the extent that this Act is appropriate to give effect to, or carry out the purposes of, the Convention on the Elimination of all Forms of Discrimination

Against Women, a copy of the English text of which is set out in the Schedule to the Sex Discrimination Act 1984.

(10)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in a Territory.

(11)By virtue of this subsection, this Act has the effect it would have if each reference in this Act to a relevant employer were, by express provision, confined to a relevant employer that is a corporation incorporated in a Territory.

(12)In this section, foreign corporation and trading or financial corporation have the same meanings as in paragraph 51(xx) of the Constitution.

Part II Affirmative action programs

6. Employers required to develop etc. affirmative action programs

(1)An employer who, on the commencement of this Act, is a relevant employer shall commence the development and implementation of an affirmative action program on the operative day.

(2)Where, after the commencement of this Act, an employer becomes a relevant employer, the relevant employer shall commence the development and implementation of an affirmative action program on the operative day.

(3)Where, at any time, an employer ceases to be a relevant employer because the number of employees of the employer falls below 100, this Act continues to have effect in relation to the employer as if the employer were a relevant employer unless and until the number of employees falls below 80.

7. Timing for development etc. of affirmative action program

(1)For the purposes of subsection 6(1), the operative day for a relevant employer is:

(a)in the case of a higher education institution-1 August 1986 or such later day as is prescribed; and

(b)in the case of a relevant employer (other than a higher education institution) who, on the commencement of this Act, employs in Australia:

(i) 1,000 or more employees-1 February 1987;

(ii) 500 or more employees but not more than 999 employees-1 February 1988; or

(iii) 100 or more employees but not more than 499 employees-1 February 1989.

(2)For the purposes of subsection 6(2), the operative day for a relevant employer is:

(a)where the relevant employer is a higher education institution:

(i) if the institution became a relevant employer in 1986-1 August 1987;

(ii) if the institution became a relevant employer in 1987-1 August 1988;

(iii) if the institution is an amalgamated institution-the day the institution is established; or

(iv) if subparagraphs (i), (ii) and (iii) do not apply-1 January in the calendar year following the calendar year during which the institution became or becomes a relevant employer; and

(b)in any other case-1 February in the calendar year following the calendar year during which the employer became or becomes a relevant employer.

8.Contents of affirmative action program

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

(a)for the issue to the employees, by a senior officer concerned with the management of the relevant employer, of a statement to the effect that the employer, in accordance with this Act, commenced the development and implementation of an affirmative action program on a specified day, being the operative day in relation to the employer;

(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 employer 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 employer, particularly employees who are women;

(e)for the collection and recording of statistics and related information concerning employment by the relevant employer, including the number of employees of either sex and the types of jobs undertaken by, or job classifications of, employees of either sex;

(f)to consider policies, and examine practices, of the relevant employer, in relation to employment matters to identify:

(i) any policies or practices that constitute discrimination against women; and

(ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women;

(g)to set objectives and make forward estimates in the program; and

(h)to monitor and evaluate the implementation of the program and to assess the achievement of those objectives and forward estimates.

(2)An affirmative action program of a relevant employer may contain any other provision that the relevant employer thinks fit that is not inconsistent with:

(a)a provision required by this section to be included; and

(b)the purposes of this Act.

(3)In subsection (1):

forward estimate means a quantitative measure or aim, which may be expressed in numerical terms, designed to achieve equality of opportunity for women in employment matters, being a measure or aim that can reasonably be implemented by the relevant employer within a specified time.

objective means a qualitative measure or aim, expressed as a general principle, designed to achieve equality of opportunity for women in employment matters, being a measure or aim that can reasonably be implemented by the relevant employer within a specified time.

Part III The Affirmative Action Agency

8A. Affirmative Action Agency

(1) The Affirmative Action Agency is established.

(2) The Agency consists of the Director of Affirmative Action and the staff referred to in section 29.

9. Director

(1) There shall be a Director of Affirmative Action.

(2) The Director has the management of the Agency.

10. Functions and powers of Agency

(1) The functions of the Agency are:

(a) to advise and assist relevant employers in the development and implementation of affirmative action programs;

(b) to issue guidelines to assist relevant employers to achieve the purposes of this Act;

(c) to monitor the lodging of reports by relevant employers as required by this Act and to review those reports and deal with them in accordance with this Act;

(d) to monitor and evaluate the effectiveness of affirmative action programs in achieving the purposes of this Act;

(e) to undertake research, educational programs and other programs for the purpose of promoting affirmative action to achieve equal employment opportunity for women;

(f) to promote understanding and acceptance, and public discussion, of affirmative action to achieve equal employment opportunity for women;

(g) to review the effectiveness of this Act in achieving its purposes; and

(h) to report to the Minister on such matters in relation to affirmative action to achieve equal employment opportunity for women as the Agency thinks fit (including a review under paragraph (g)).

(2) In addition to any other powers conferred on the Agency by this Act, the Agency has power to do all things necessary or convenient to be done for or in connection with the performance of the functions of the Agency.

11.Directions by Minister

- (1)The Agency is to exercise its powers and perform its functions in accordance with general instructions given by the Minister in writing.
- (2)Where the Minister gives a direction under subsection (1), the Minister shall cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after the direction is given.

12.Agency to submit reports to Minister

- (1)The Agency must, as soon as practicable, and in any event within 6 months, after each 31 May, submit to the Minister a report on its operations during the year that ended on that 31 May.
- (2)The Agency may, from time to time, submit to the Minister:
- (a)a report on the operations of the Agency during the period to which the report relates; or
 - (b)a report in respect of any matter relating to, or connected with, the exercise of the powers, or the performance of the functions, of the Agency under this Act.
- (3)Where a report has been submitted to the Minister under subsection (1) or (2), the 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 the Minister receives the report.

Part IV Reports by relevant employers

13 Public reports

- (1)In this section:

first report, in relation to a relevant employer, means a public report on the initial development and implementation of the employer's affirmative action program.

subsequent report, in relation to a relevant employer, means a public report, other than the first report, on the development and implementation of the employer's affirmative action program.

(1A)A relevant employer, being a higher education institution that became a relevant employer in 1987, shall prepare a first report in respect of the period commencing on 1 August 1988 and ending at the end of 31 December 1989.

(1B)A relevant employer, being an amalgamated institution that became or becomes a relevant employer on a day other than 1 January, shall prepare a first report in respect of the period commencing on the operative day for the relevant employer and ending at the end of the calendar year following the calendar year during which the institution became or becomes a relevant employer.

(1C)A relevant employer, other than a relevant employer to whom subsection (1A) or (1B) applies, shall prepare a first report in respect of the period of 12 months commencing on the operative day for the relevant employer.

(1D)A relevant employer, being a higher education institution that was a relevant employer on the

commencement of this Act, shall prepare a subsequent report:

(a) in respect of the period commencing on 1 October 1988 and ending at the end of 31 December 1989; and

(b) in respect of each subsequent calendar year.

(1E) A relevant employer, being a higher education institution that became a relevant employer after the commencement of this Act and before 1 January 1987, shall prepare a subsequent report:

(a) in respect of the period commencing on 1 August 1988 and ending at the end of 31 December 1989; and

(b) in respect of each subsequent calendar year.

(1F) A relevant employer, being a higher education institution that became a relevant employer in 1987, shall prepare a subsequent report:

(a) in respect of the year commencing on 1 January 1990; and

(b) in respect of each subsequent calendar year.

(1G) A relevant employer that is an amalgamated institution shall prepare a subsequent report in respect of each calendar year subsequent to the period in respect of which its first report was prepared.

(1H) A relevant employer, other than a relevant employer to whom subsection (1D), (1E), (1F) or (1G) applies, shall prepare a subsequent report in respect of each period of 12 months commencing on the anniversary of the operative day in respect of the relevant employer.

(1J) Where:

(a) an institution has ceased to exist because it has been amalgamated with one or more institutions to establish an amalgamated institution; and

(b) immediately before the amalgamation the first-mentioned institution was a relevant employer;

the amalgamated institution shall cause to be prepared a report on the development and implementation of the affirmative action program of the first-mentioned institution in respect of the period commencing:

(c) if paragraph (d) does not apply-at the commencement of the period immediately following the period in respect of which the first-mentioned institution last prepared a report under this section; or

(d) if the first-mentioned institution had not prepared any report under this section-on the operative day for the first- mentioned institution;

and ending at the end of the day on which the first-mentioned institution ceased to exist.

(2) A relevant employer shall lodge a report under this section with the Agency within 3 months after the end of the period to which the report relates.

(3) A report under this section shall provide:

(a) statistics and related information concerning employment by the relevant employer, including the number of employees of either sex and the types of jobs undertaken by, or job classifications of, employees of either

sex; and

(b) an outline of the processes undertaken by the relevant employer:

(i) in the case of the employer's first report-initially to develop and implement the employer's affirmative action program; and

(ii) in any other case-further to develop and implement the program.

13A. Agency may waive certain reporting requirements

If the Agency is satisfied that:

(a) an employer has established an affirmative action program that complies with the requirements of subsection 8(1); and

(b) the employer has complied with the other requirements of this Act for a period of at least 3 years;

the Agency may, by written notice given to the employer, waive such of the requirements of section 13 as are specified in the notice.

14. Confidential reports

(1) Subject to subsection (3), where a relevant employer lodges a public report under subsection 13(2), the employer shall, at the same time, lodge with the Agency a separate confidential report in accordance with subsection (2).

(2) A confidential report of a relevant employer shall provide a detailed analysis of the processes undertaken by the employer:

(a) in the case of the employer's first report-initially to develop and implement the employer's affirmative action program; and

(b) in any other case-further to develop and implement the program.

(3) Where a relevant employer has, in the employer's public report, provided a detailed analysis as described in subsection (2), the employer need not lodge a separate confidential report under subsection (1).

15. Use of public report

A public report, or a part of a public report (including a copy of the report or part of the report):

(a) shall be made available by the Agency to a member of the public, on application; and

(b) may be used, either in whole or in part, in a report of the Agency under subsection 12(1) or (2).

16. Request to relevant employer

(1) The Agency may, in writing, request that information which the relevant employer has included in a confidential report be made available to the public or for use, either in whole or in part, in a report of the Agency under subsection 12(1) or (2).

(2) Where a relevant employer has received a request by the Agency under subsection (1), the relevant employer may, in writing, consent to:

- (a) the Agency making that information available to the public; or
- (b) the Agency using that information in a report of the Agency under subsection 12(1) or (2);

subject to such conditions as the relevant employer specifies in the consent.

17. Agency may grant extensions

(1) A relevant employer may, before the end of the 3 months within which the relevant employer is required to lodge with the Agency a public report under subsection 13(2), apply to the Agency to extend the period for a further period to enable the employer to lodge the public report or a confidential report.

(2) Where the Agency:

- (a) has received a request under subsection (1) to extend a period in respect of a report; and
- (b) considers that there are reasonable grounds for extending the period;

the Agency may grant an extension in respect of the report for such period, not exceeding 6 months, as the Agency thinks fit.

18. Request for further information

Where a public report or confidential report has been lodged with the Agency by a relevant employer and, in the opinion of the Agency, the information provided in the report by the employer fails to comply with subsection 13(3) or 14(2), as the case may be, the Agency may, by notice in writing, request the employer to provide further information within such period as is specified in the notice.

19. Failure to submit report or further information

(1) Where, without reasonable excuse, a relevant employer:

- (a) fails to lodge a public report or confidential report as required by this Part; or
- (b) fails to provide further information in accordance with a notice given under section 18;

the Agency may, subject to subsection (2), name the relevant employer in a report of the Agency under subsection 12(1) or (2) as having failed to provide the report or further information, as the case may be.

(2) Where the Agency proposes to name a relevant employer in a report under subsection 12(1) or (2), the Agency shall, not less than 28 days before the day on which the report is submitted to the Minister, furnish the relevant employer with a notice in writing stating that the Agency proposes so to name the employer and specifying the reasons for the proposal.

Part V Director of Affirmative Action

20. Appointment of Director

(1)The Director shall be appointed by the Governor-General.

(2)A person who has attained the age of 65 years shall not be appointed as the Director, and a person shall not be appointed as the Director for a period that extends beyond the day on which the person will attain the age of 65 years.

21.Tenure of Director

(1)The Director holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2)The Director holds office, subject to this Part, on such terms and conditions as are determined by the Governor-General.

22.Remuneration and allowances

(1)The Director shall be paid:

(a)such remuneration as is determined by the Remuneration Tribunal; and

(b)such allowances as are prescribed.

(2)This section has effect subject to the Remuneration Tribunal Act 1973.

23.Leave of absence

The Minister may grant leave of absence to the Director upon such terms and conditions as to remuneration or otherwise as the Minister determines.

24.Outside employment

The Director shall not engage in paid employment outside the duties of the office of Director except with the approval of the Minister.

25.Resignation

The Director may resign the office of Director by writing signed and delivered to the Governor-General.

26.Termination of appointment

(1)The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2)If the Director:

(a)becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;

(b)engages, except with the approval of the Minister, in paid employment outside the duties of the office of Director;

(c) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months; or

(d) without reasonable excuse, contravenes section 27;

the Governor-General shall terminate the appointment of the Director.

27. Disclosure of interest

The Director shall give written notice to the Minister of all direct or indirect pecuniary interests that the Director has or acquires in, or in relation to, a relevant employer.

28. Acting appointment

(1) The Minister may appoint a person to act as the Director:

(a) during a vacancy in the office of Director (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office of Director;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) While a person is acting as the Director, the person has and may exercise all the powers, and shall perform all the functions, of the Director.

(3) An appointment of a person to act as Director may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) The Minister may:

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as the Director; and

(b) terminate such an appointment at any time.

(5) Where a person is acting as the Director otherwise than by reason of a vacancy in the office of Director, and the office of Director becomes vacant while the person is so acting, then, subject to subsection (3), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(6) A person appointed to act as the Director may resign by writing signed and delivered to the Minister.

(7) The validity of anything done by or in relation to a person purporting to act as the Director shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

Part V Miscellaneous

29. Staff

(1) The staff required for the purposes of this Act shall be persons appointed or employed under the Public Service Act 1922.

(2) The Director has all the powers of, or exercisable by, a Secretary under the Public Service Act 1922 so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in subsection (1) as if that branch were a separate Department of the Australian Public Service.

30. Consultants

(1) The Agency may, on behalf of the Commonwealth, engage as consultants to the Agency persons having suitable qualifications and experience.

(2) The terms and conditions of engagement of persons engaged under subsection (1) are such as are determined by the Agency.

31. Advisory committees

(1) Subject to this section the Minister may, in consultation with the Agency, establish such advisory committees as the Minister considers necessary for the purpose of giving advice to the Minister and to the Agency on particular matters or classes of matters relating to affirmative action programs, functions of the Agency or the operation of this Act.

(2) An advisory committee shall consist of such persons as the Minister from time to time appoints.

(3) For the purposes of assisting the Minister in the appointment of the members of an advisory committee, the Agency may provide the Minister with a list of the names of persons:

(a) representing industry or business (including a part of an industry);

(b) representing trade unions;

(c) representing higher education institutions;

(d) representing organisations who represent women; or

(e) having special knowledge or interest in relation to affirmative action programs, the functions of the Agency or the operation of this Act.

(4) A member of an advisory committee holds office for such period as is specified in the instrument of appointment, but is eligible for re-appointment.

(5) A member of an advisory committee may resign from office by writing signed and delivered to the Minister.

(6) The number of members of an advisory committee required to constitute a quorum at a meeting of that advisory committee shall be as determined by the Minister.

(7) If the Minister decides that a member of an advisory committee should be remunerated, that member shall be paid such remuneration as is determined by the Remuneration Tribunal.

(8) A member of an advisory committee shall be paid such allowances as are prescribed.

(9) Subsections (7) and (8) have effect subject to the Remuneration Tribunal Act 1973.

32. Non-disclosure of confidential information

(1) A person who is, or has at any time been, the Director or a member of the staff referred to in section 29 or a consultant engaged under section 30 or is, or has at any time been, authorised to perform or exercise any function or power under an arrangement in force under section 33, shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act or in the performance or exercise of such a function or power:

(a) make a record of, or divulge or communicate to any person, any information relating to a confidential report or confidential information acquired by the first-mentioned person by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised;

(b) make use of any such report or information as is mentioned in paragraph (a); or

(c) produce to any person a confidential report or a document relating to confidential information of another person furnished for the purposes of this Act;

except to the extent that the report or information is the subject of a consent under subsection 16(2).

Penalty: \$2,500 or imprisonment for 3 months, or both.

(2) A person who is, or has at any time been, the Director or a member of the staff referred to in section 29 or a consultant engaged under section 30 or is, or has at any time been, authorised to perform or exercise any function or power under an arrangement in force under section 33, shall not be required:

(a) to divulge or communicate to a court any information relating to a confidential report or confidential information acquired by the first-mentioned person by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised; or

(b) to produce in a court a confidential report or a document relating to confidential information of which the first-mentioned person has custody, or to which that person has access, by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised;

except to the extent that the report or information was the subject of a consent under subsection 16(2) or where it is necessary to do so for the purposes of this Act.

(3) Nothing in this section prohibits a person from:

(a) divulging or communicating information, or producing a document, to the Agency or an officer of a State, in accordance with an arrangement in force under section 33; or

(b) divulging or communicating information, or producing a document, that is required or permitted by an Act to be divulged, communicated or produced, as the case may be.

(4) In this section:

confidential information means information which, at the time when it is supplied by a relevant employer, the relevant employer has specified as being supplied in confidence.

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

produce includes permit access to.

33. Delegation

(1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Director, delegate to:

(a) a person referred to in subsection 29(1); or

(b) an officer in respect of whom an arrangement is in force under subsection (4);

all or any of the powers and functions of the Agency under this Act other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Agency.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Agency.

(4) The Minister may make an arrangement with a Minister of a State for and in relation to the exercise of powers, and the performance of functions, of the Agency under this Act by an officer of the State.

(5) In relation to higher education institutions, the Minister may make an arrangement with a Minister of a State for the Agency and an officer of the State to co-operate, to the extent specified in the arrangement, in:

(a) exchanging information relating to the development and implementation of affirmative action programs; and

(b) developing guidelines to be issued under paragraph 10(1)(b).

(6) An arrangement may contain such incidental or supplementary provisions as the Minister and the Minister of the State think necessary.

(7) The Minister may arrange with the Minister of a State with whom an arrangement is in force for the variation or revocation of the arrangement.

(8) An arrangement, or the variation or revocation of an arrangement, shall be in writing and a copy of each instrument by which an arrangement has been made, varied or revoked shall be published in the Gazette.

34. 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.

Note

The Affirmative Action (Equal Employment Opportunity for Women) Act 1986 as shown in this reprint comprises Act No. 91, 1986 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Affirmative Action (Equal Employment Opportunity for Women) Act 1986	91, 1986	3 Sept 1986	1 Oct 1986 (see Gazette 1986, No. S491)	
Employment, Education and Training Act 1988	80, 1988	24 June 1988	1 July 1988 (see Gazette 1988, No. S190)	-
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	Ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 (see s. 2(2) and Gazette 1989, No. S53)	-
Affirmative Action (Equal Employment Opportunity for Women) Amendment Act 1989	30, 1989	24 May 1989	24 May 1989	-
Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992	105, 1992	9 July 1992	5 Oct 1992 (see s. 2)	-
Affirmative Action (Equal Employment Opportunity for Women) Amendment Act 1992	181, 1992	16 Dec 1992	16 Dec 1992	S. 12

Qantas Sale Act 1992	196, 1992	21 Dec 1992	Schedule (Parts 3 and 6): (a)	S. 2(6) (am. by 60, 1993, s. 4; 168, 1994, s. 3)
as amended by				
Qantas Sale Amendment Act 1993	60, 1993	3 Nov 1993	10 Mar 1993	-
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	S. 3 (item 17): Royal Assent (b)	-
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 4 (items 6, 7): Royal Assent (c)	-
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Schedule 19 (item 4): Royal Assent (d)	-

(a)The Affirmative Action (Equal Employment Opportunity for Women) Act 1986 was amended by the Qantas Sale Act 1992, subsections 2(2), (5) and (6) of which provide as follows:

"(2)Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

"(5)If, on the 100% sale day, Part 3 of the Schedule has not commenced, then, on the day on which Part 7 of the Schedule commences, Parts 3 and 6 of the Schedule are taken to have been repealed.

"(6)If a provision of this Act has not commenced before 31 August 1995, the provision is taken to have been repealed on that day."

The Schedule (Parts 3 and 6) are taken to have been repealed on 31 August 1995.

(b)The Qantas Sale Act 1992 was amended by section 3 (item 17) only of the Qantas Sale Amendment Act 1994, subsection 2(1) of which provides as follows:

"(1)Subject to this section, this Act commences on the day on which it receives the Royal Assent."

(c)The Affirmative Action (Equal Employment Opportunity for Women) Act 1986 was amended by Schedule 4 (items 6, 7) only of the Statute Law Revision Act 1996, subsection 2(1) of which provides as follows:

"(1)Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent."

(d)The Affirmative Action (Equal Employment Opportunity for Women) Act 1986 was amended by Schedule 19 (item 4) only of the Workplace Relations and Other Legislation Amendment Act 1996, subsection 2(1) of which provides as follows:

"(1)Subject to this section, this Act commences on the day on which it receives the Royal Assent."

Table of Amendments

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

Provision affected	How affected
Title	am. No. 181, 1992
S. 3	am. Nos. 80 and 87, 1988; No. 30, 1989; Nos. 105 and 181, 1992; No. 60, 1996
S. 5	am. No. 105, 1992
S. 7	am. No. 30, 1989
Heading to Part III	rs. No. 181, 1992
S. 8A	ad. No. 181, 1992
Ss. 9-12	am. No. 181, 1992
S. 13	am. No. 30, 1989; No. 181, 1992
S. 13A	ad. No. 181, 1992
Ss. 14-19	am. No. 181, 1992
S. 22	am. No. 43, 1996

S. 30	am. No. 181, 1992
S. 31	am. No. 181, 1992; No. 43, 1996
Ss. 32, 33	am. No. 181, 1992

[\[1\]](#) See Note Table of Acts.

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