

Multigenerational workforces: a guide to the rights of older workers under the *Age Discrimination Act 2004* (Cth)

June 2019



Australian
Human Rights
Commission

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Australian Human Rights Commission 2019



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Multigenerational workforces: a guide to the rights of older workers under the *Age Discrimination Act 2004 (Cth)* • June 2019

ISBN 978-1-925917-07-9

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SECTION

01 Introduction



Australians are increasingly working to older ages.¹ As a result, there are now five generations working side by side in the workforce.

Older workers contribute significant value to the workplace in the form of:

- industry experience
- expertise
- strategic thinking
- the ability to mentor younger workers
- loyalty.

While older workers bring skills and knowledge to the workplace,² age discrimination still presents a significant barrier to meaningful participation in the workforce. In 2016–17, 58% of age discrimination complaints received by the Australian Human Rights Commission (the Commission) were related to work.³

This guide is issued under section 53(1)(f) of the *Age Discrimination Act 2004* (Cth) (the Act). It is designed to provide employers and other work providers with:

- information about the operation of the Act
- practical guidance about promoting the inclusion of older workers in multigenerational workforces.

The guide may also assist employees and workers in understanding their rights under the Act.



Work relationships

The Act applies to a broad range of 'work relationships', and prospective work relationships (for example, when a person has applied for a role and is moving through the recruitment process).

Work relationships may, for example, be **employee and employer; partner and partners; commission agent and principal; contract worker and principal; or an employment agency, employer and employee/worker.**

See **section 2.2** for a detailed discussion about how the Act applies to these different relationships.

Work

'Work' is not defined in the Act. It is used in this guide to refer to activities undertaken in the context of the relationships outlined above. Examples of work include the activities of a partner in an accounting firm with six or more partners, or a barista employed in a café.

Work provider

The term 'work provider' is not used in the Act. It is a collective term used in this guide to refer to all parties who engage another person to do work or partner with them in a partnership whether as an employer, fellow partner, principal (in the context of a commission agent or contract worker) or employment agency.

Workplace

'Workplace' is not defined in the Act but is used in this guide as a collective term to refer to all of the places and contexts in which work is conducted. Examples of workplaces include an office, factory, shop, or café.

02 What does the law say?



This section outlines the relevant provisions of the federal Act.

In addition to the federal Act, employers and other work providers also have obligations under state and territory anti-discrimination laws.

Summary of the federal *Age Discrimination Act 2004 (Cth)*

It is unlawful for a work provider to discriminate on the basis of age in a work context unless:

- the different treatment amounts to 'positive discrimination', or
- an exemption applies.

Positive discrimination includes a measure put in place to provide a benefit to a person of a particular age group.

An **exemption** 'exempts' a person or organisation from the operation of the Act, and means that a successful claim of unlawful discrimination cannot be brought. The Act provides for specific exemptions (for example, the inherent requirements of the job or domestic duties), general exemptions, and temporary exemptions.

2.1 What is discrimination on the basis of age?

The Act operates to prohibit discrimination against older Australians, as well as younger Australians in certain areas of public life. 'Age' is defined to include 'age group', a term which is undefined.⁴ This guide focuses on the experiences of older workers.

Under the Act, discrimination on the basis of age can include both direct and indirect discrimination.

'Direct discrimination' occurs when a person is treated less favourably than another person because of their age, or a characteristic generally associated with a person of that age, in circumstances that are the same or not materially different.⁵



For example, if a person is selected for a redundancy simply because they are aged over 55 this is likely to amount to direct discrimination on the basis of age.

'Indirect discrimination' can be less obvious. Indirect discrimination occurs when a condition, requirement or practice that applies to everyone, disadvantages people of a particular age, and the condition, requirement or practice is not reasonable in the circumstances.⁶ In a work context the employer or work provider is required to prove that the condition, requirement or practice was reasonable.⁷



For example, it could be indirect discrimination if an employer requires an older person to meet a physical fitness test, which more young people are able to meet, if that fitness standard is not necessary for the job in question.

2.2 When is it unlawful to discriminate in a work context?

The Act makes it unlawful to discriminate on the basis of age in the workplace in relation to, amongst other things:

- recruitment arrangements
- decisions about who should be offered a role
- access to the benefits of a role
- access to promotion, transfer or training opportunities
- the terms and conditions of a role
- termination
- any other detriment.

The table on page 8 outlines:

- when discrimination on the basis of age will be unlawful, based on the type of work relationship (for example, employee/applicant and employer)
- the specific exemptions that exist in relation to each of these relationships (for example, domestic duties and inherent requirements). 'Inherent requirements' is not defined in the Act but can be understood as being something essential to a position.

Relevant definitions and examples are outlined in the breakout boxes next to the table.

| Employment | |
|---|---|
| Unlawful discrimination | Specific exemptions |
| <p>Applicant</p> <p>It is unlawful for an employer⁸ to discriminate against a person based on their age:</p> <ul style="list-style-type: none"> • in the arrangements made for the purpose of determining who should be offered employment • in determining who should be offered employment • in the terms or conditions on which employment is offered.⁹ <p>Employee</p> <p>It is unlawful for an employer¹⁰ to discriminate against an employee based on the employee's age:</p> <ul style="list-style-type: none"> • in the terms or conditions of employment for the employee • by denying the employee access, or limiting their access, to opportunities for promotion, transfer or training, or any other benefits • by dismissing the employee, or • by subjecting the employee to any other detriment.¹¹ | <p>Domestic duties</p> <p>It is permissible for a potential employer to discriminate against a person based on their age in relation to:</p> <ul style="list-style-type: none"> • the arrangements made for the purpose of determining who should be offered employment • in determining who should be offered employment <p>in connection with employment to perform 'domestic duties' for the potential employer at the premises¹² where they reside.¹³</p> <p>'Domestic duties' is not defined in the Act.</p> <p>Inherent requirements</p> <p>It is permissible for an employer to discriminate against a person if they are unable to carry out the inherent requirements of the role because of their age.¹⁴</p> <p>This exemption applies in the following contexts:</p> <ul style="list-style-type: none"> • in the arrangements made for determining who should be offered employment • in determining who should be offered employment • the dismissal of an employee.¹⁵ <p>In deciding whether a person is unable to carry out the inherent requirements of the particular employment, the following is to be taken into account:</p> <ul style="list-style-type: none"> • the person's past training, qualifications and experience as relevant to the employment • the person's performance as an employee • all other relevant factors that it is reasonable to take into account.¹⁶ |



Employment includes:

- part-time and temporary
- work under a contract for services¹⁷
- work as a Commonwealth employee¹⁸
- work as an employee of a State or an instrumentality of a State.¹⁹



Inherent requirements is not defined in the Act but can be understood as something essential to the position.



A potential employer can require that a housekeeper they are proposing to employ in their home is younger than 60 years old.



It may be an inherent requirement of working on the factory floor of a manufacturing company that a person is able to work a 12 hour shift.

It is likely to be permissible for a manufacturing company to dismiss an older employee if they are no longer wish to work a 12 hour shift because of their age.

| Commission agent | |
|--|--|
| Unlawful discrimination | Specific exemptions |
| <p>Applicant</p> <p>It is unlawful for a principal to discriminate against a person based on the person's age:</p> <ul style="list-style-type: none"> • in the arrangements made for the purpose of determining who should be engaged as a commission agent • in determining who should be engaged as a commission agent • in the terms or conditions on which a person is engaged as a commission agent.²⁰ <p>Commission agent</p> <p>It is unlawful for a principal to discriminate against a commission agent based on the commission agent's age:</p> <ul style="list-style-type: none"> • in the terms or conditions on which they are engaged • by denying them access to, or limiting their access, to opportunities for promotion, transfer or training, or any other benefits • by terminating their engagement • by subjecting them to any other detriment.²¹ | <p>Inherent requirements</p> <p>It is permissible for a principal to discriminate against a person if they are unable to carry out the inherent requirements of the role because of their age.²²</p> <p>This exemption applies in the following contexts:</p> <ul style="list-style-type: none"> • in the arrangements made for determining who should be engaged as a commission agent • in determining who should be engaged as a commission agent • the termination of a commission agent's engagement.²³ <p>In deciding whether the inherent requirements exemption applies the following is to be taken into account:</p> <ul style="list-style-type: none"> • the person's past training, qualifications and experience as relevant to engagement as a commission agent • the person's performance as a commission agent • all other relevant factors.²⁴ |
| Contract worker | |
| Unlawful discrimination | Specific exemptions |
| <p>It is unlawful for a principal to discriminate against a contract worker based on their age:</p> <ul style="list-style-type: none"> • in the terms or conditions of their arrangement • by not allowing them to work or continue to work • by denying them access, or limiting their access, to any benefit associated with the contract • by subjecting them to any other detriment.²⁷ | <p>Inherent requirements</p> <p>It is permissible for a principal to discriminate against a person in the following circumstances if the person is unable to carry out the inherent requirements of a contract worker because of their age:</p> <ul style="list-style-type: none"> • by not allowing them to work • by not allowing them to continue to work.²⁸ <p>In deciding whether the inherent requirements exemption applies the following is to be taken into account:</p> <ul style="list-style-type: none"> • the person's past training, qualifications and experience as relevant to working as a contract worker • the person's performance as a contract worker • all other relevant factors that it is reasonable to take into account.²⁹ |



Commission agent means a person who does work for another person (as the agent of that person) and is paid in whole or in part, by commission.²⁵

Principal, in relation to a commission agent, means a person who a commission agent works for.²⁶



It may be an inherent requirement of being a commission agent for a large fertiliser company that a person is able to drive to local farms to meet with farmers and agronomists.

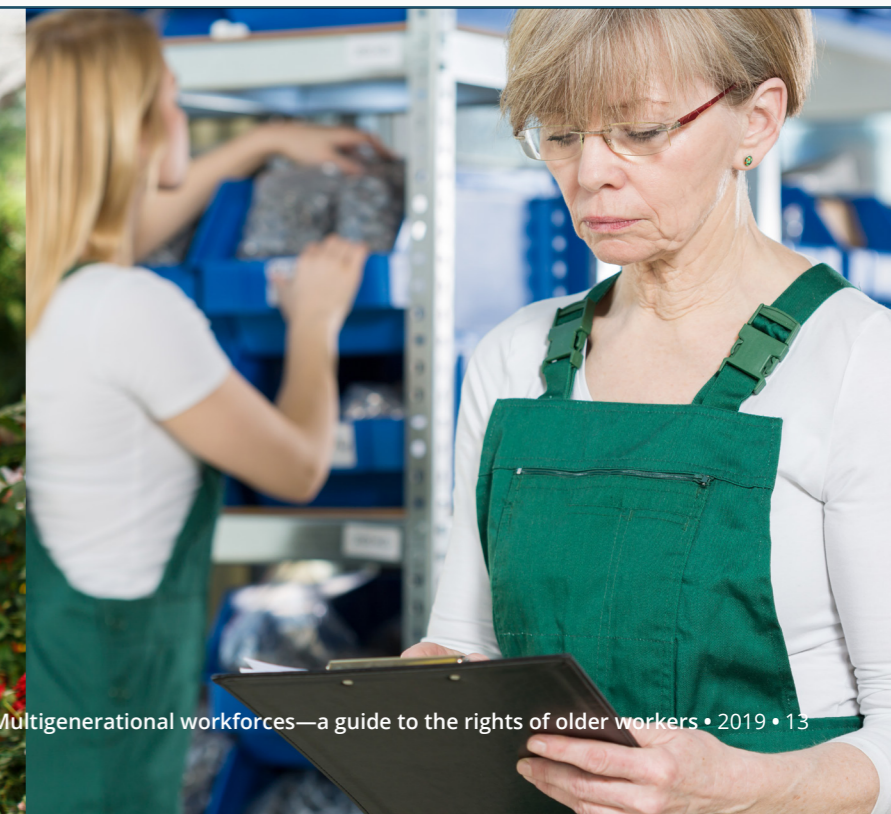
It is likely to be permissible for a fertiliser company to decide not to engage someone who is 80 years old as a commission agent because they do not hold a driver's licence because of their age.



Contract worker means a person who does work for another person under a contract between their employer and the other person.³⁰

Principal, in relation to a contract worker, means the person that the contract worker performs work for (not the employer).³¹

| Partnership | |
|--|--|
| Unlawful discrimination | Specific exemptions |
| <p>New partnership</p> <p>It is unlawful for six or more people, who are proposing to form a partnership, to discriminate against another person based on their age:</p> <ul style="list-style-type: none"> • in determining who should be invited to become a partner in the partnership • in the terms or conditions on which the other person is invited to become a partner in the partnership.³² <p>Existing partnership and non-partner</p> <p>It is unlawful for a partner in a partnership (of six or more partners) to discriminate against another person based on their age:</p> <ul style="list-style-type: none"> • in determining who should be invited to become a partner in the partnership • in their terms or conditions on which the other person is invited to become a partner in the partnership.³³ <p>Existing partnership and partner</p> <p>It is unlawful for a partner in a partnership (of six or more partners) to discriminate against another partner based on their age:</p> <ul style="list-style-type: none"> • by denying the other partner access, or limiting the partner's access, to any benefit arising from being a partner • by expelling the other partner from the partnership • by subjecting the partner to any other detriment.³⁴ | <p>Inherent requirements</p> <p>It is permissible for a person to discriminate against another person in the following circumstances if the person is unable to carry out the inherent requirements of a partner because of their age:</p> <ul style="list-style-type: none"> • in determining who should be invited to become a partner in a new partnership • in determining who should be invited to become a partner in an existing partnership • by expelling a partner from a partnership.³⁵ <p>In deciding whether the inherent requirements exemption applies the following is to be taken into account:</p> <ul style="list-style-type: none"> • the person's past training, qualifications and experience relevant to the proposed or existing partnership • the person's performance as a partner • all other relevant factors that it is reasonable to take into account.³⁶ |



| Employment agency | |
|--|---|
| Unlawful discrimination | Specific exemptions |
| <p>It is unlawful for an employment agency to discriminate against a person based on their age:</p> <ul style="list-style-type: none"> • by refusing to provide the person with any of its services • in the terms or conditions on which it offers to provide its services • in the manner in which it provides its services.³⁷ | <p>Inherent requirements</p> <p>It is permissible for an employment agency to discriminate against a person if the person is unable to carry out the inherent requirements of the work because of their age.³⁸</p> <p>In deciding whether the inherent requirements exemption applies the following is to be taken into account:</p> <ul style="list-style-type: none"> • the person's past training, qualifications and experience relevant to the work sought • all other relevant factors that it is reasonable to take into account.³⁹ |



Employment agency means a person/body who assists people to find employment or other work, or assists employers to find employees or workers.⁴⁰



It is an inherent requirement of flying for an international private jet charter company that a pilot is under 60 years old, in order to be permitted to fly into international air space without restriction.

It is likely to be permissible for an employment agency that recruits charter pilots to refuse to provide its services to a person aged over 60 because of their age.



It is also unlawful for other bodies that are not work providers to discriminate against a person in relation to activities connected to work. For example, it is unlawful for a body that issues qualifications⁴¹ (such as a TAFE or university) or an organisation or association registered or recognised under the *Fair Work (Registered Organisations) Act 2009* (Cth)⁴² (such as a union) to discriminate against a person based on their age in particular circumstances.

It is also important to note that requesting information about a person's age for the purpose of discrimination is also unlawful.⁴³



2.3 When is discrimination allowed?

(a) Positive discrimination

Discrimination on the basis of age will be permissible if it amounts to positive discrimination.⁴⁴

An act will constitute positive discrimination under the Act if, consistent with the purposes of the Act:

- it provides a bona fide benefit to people of a particular age
- it is intended to meet a need that arises out of the age of people of a particular age, or
- the act is intended to reduce a disadvantage experienced by people of a particular age.⁴⁵



For example, a recruitment campaign targeted at unemployed or underemployed older workers (an act intended to reduce disadvantage)⁴⁶ is likely to be a form of positive discrimination.

(b) General exemptions

There are a number of general exemptions to the discrimination protections of the Act. Depending on the particular circumstances these may be relevant in a work context.

The general exemptions relate to:

- charities, religious and voluntary bodies⁴⁷
- superannuation, insurance and credit⁴⁸
- health⁴⁹
- direct compliance with the law, a court order, or taxation and social security legislation⁵⁰
- targeted Commonwealth employment programs⁵¹
- administration of migration and citizenship laws⁵²
- youth wages.⁵³

Specific requirements must be met in order for these exemptions to apply.



For example if the relevant requirements are met, it may be permissible for:

- a voluntary body (including a union) to refuse a person's application for membership based on their age
- an organisation to refuse to provide a person with an income protection insurance policy based on their age
- a work provider to facilitate the provision of free flu vaccinations to employees over a certain age where the vaccine is part of an 'exempted health program'.

(c) Temporary exemptions

An organisation may apply to the Commission for a temporary exemption. Given the other general exemptions that already exist in the Act, the Commission grants temporary exemptions sparingly. The Commission has published **guidelines** about how it assesses applications for temporary exemptions under the Act.⁵⁴

Temporary exemptions can be granted:

- subject to certain terms and conditions, and
- for a period of up to five years.⁵⁵

If a temporary exemption is granted, it will not be possible for a successful complaint to be brought in relation to the circumstances covered by the exemption.

2.4 What constitutes an offence?

Advertisements which indicate an intention to discriminate on the basis of age, and victimisation are both offences subject to penalties under the Act.⁵⁶

(a) Advertisement

It is an offence to publish or display, or cause the publication or display, of an advertisement or notice if:

- the advertisement or notice indicates, or could reasonably be understood to indicate, an intention to do an action, and
- that action would constitute unlawful discrimination on the basis of age.⁵⁷

'Publication or display' is broadly defined and includes newspapers, television, radio, signs and circulars.⁵⁸ The advertisement or notice does not need to be displayed to the public.⁵⁹

(b) Victimisation

It is an offence under the Act to victimise another person.⁶⁰ Victimisation includes intentionally subjecting, or threatening to subject, a person to a detriment because they have either made or proposed to make a complaint under the Act, or have engaged with the Commission's complaints process in some other way (for example, as a witness in proceedings).⁶¹

2.5 Who is legally responsible for discrimination under the Act?

Legal responsibility—often described as liability—determines who has to pay compensation or take other actions because of a finding of unlawful discrimination.

Both an individual or organisation that discriminates against an individual, and a person who 'causes, instructs, induces, aids or permits' another person to do that act can be held liable under the Act.⁶²

It is also important to note that an employer or other work provider can be vicariously liable for the actions of employees or agents where these amount to unlawful discrimination, or an unlawful request for information, unless they have taken reasonable precautions or conducted due diligence to prevent discrimination on the basis of age.⁶³

How can workplaces promote the inclusion and value of older workers?



The case studies below have been developed to illustrate the barriers that older workers face, and how employers and other work providers can promote the inclusion and value of older workers in a multigenerational workforce.

3.1 Recruitment

Employers and work providers can promote the inclusion of older workers by ensuring that recruitment processes are age-neutral.

A recent Australian HR Institute report found that an increasing number of organisations believe there are no obstacles preventing the recruitment of older workers (32% in 2018, up from 27% in 2014).⁶⁴ However, one in three survey respondents indicated there was an age over which they were reluctant to recruit.⁶⁵ The majority of them nominated 50 as 'too old'.⁶⁶

Case study—job interview

Ivan is a 55 year old software developer. He applies for a role at a start-up gaming company. In his previous role he was the head of innovation at Australia's largest developer.

When Ivan enters the interview room he sees the three people on the panel, all aged in their 30s, smile and nod at each other. One of the panel members asks about how he started working in software development. They are thrilled to hear that Ivan wrote the code that their company's new flagship game is based on.

Ivan asks a number of questions about the company's plans for their new game. The Director of marketing indicates that while the game has good engagement they are finding it difficult to connect with distributors. Ivan explains that due to the time he has spent working in the industry he has developed strong relationships with a number of large distributors.

The panel consider Ivan's technical and business experience in their industry would be a significant asset to their business so they offer him the role.

3.2 Training and professional development

Employers and work providers can promote the inclusion of older workers by ensuring that training and professional development opportunities are open to all workers, regardless of age.

In a recent survey on ageism the Benevolent Society found that one in four respondents thought that employers would get better value out of training younger people, rather than older people.⁶⁷ This is despite older workers being loyal employees—an earlier study indicated that workers aged 45 and over were 2.6 times less likely to leave their jobs in the preceding 12 months.⁶⁸

Case study—opportunity for training

Samara is a 58 year old midwife. She has been working at the same hospital for ten years.

The hospital that Samara works at has been selected for training in a new pain management protocol. Half of the midwives that work at the hospital will have an opportunity to participate in the training.

When Samara expresses her interest in participating in the training the nursing unit manager explains that given the limited places available in the program she wants to make sure that the places are offered to people who 'will be here for a while'.

By making assumptions about Samara based on her age the nursing unit manager, and the hospital, have potentially unlawfully discriminated against her and they have missed an opportunity to draw on Samara's life and work experience as part of the new program.

3.3 Promotion opportunities

Employers and work providers can promote the inclusion of older workers by ensuring that promotion and advancement processes are age-neutral.

In the Benevolent Society's recent survey 14% of respondents aged 65 and over said they had been denied a promotion at work due to their age.⁶⁹

Case study—denied a promotion

Lisbeth is a 48 year old lawyer. She studied law as a mature age student, and works in a regional area in a firm of eight partners, 15 lawyers and four paralegals.

Lisbeth has been practising for seven years. All of the other people in her cohort, aged in their early 30s, have been promoted to Senior Associate. Two people who commenced two years after her have also been promoted.

On average, people at her firm are made Senior Associates once they have been practising law for five years. Lisbeth has always performed well in her appraisals and is recognised as a skilled lawyer who brings in a significant amount of work for the firm.

The next round of promotions are due to be announced in May. Lisbeth arranges a meeting with the Partner she works for to discuss her desire to be promoted. During their meeting the Partner indicates that he has put her forward for a promotion for the last two years but 'there is a real concern from the other Partners about having a Senior Associate who appears to be more senior than them.'

By not promoting Lisbeth to the role of Senior Associate because of concerns about her appearing 'more senior' than the Partners, her firm has potentially unlawfully discriminated against her.

04 Checklist



3.4 Flexible work

To promote the inclusion of older workers, employers and work providers should:

- ensure that flexible work arrangements are available to all people regardless of age
- consider harnessing flexible work arrangements as part of their transition to retirement processes.

Flexible work is an effective way to address issues of underemployment for older workers, and a loss of knowledge for organisations.

Some older people are either working less than they would like to, or are looking for work. Among people aged 55 and over in November 2017, 6.1% of employed people were underemployed.⁷⁰

Loss of knowledge is a significant problem for organisations. According to the Australian HR Institute, two in three organisations lose key skills and knowledge when older workers leave, but only a quarter (26%) have processes in place to capture corporate knowledge from exiting workers.⁷¹

Case study—request for flexible work

Carlos is a 65 year old delivery driver. He delivers flowers for a local florist, Silvia, who owns a number of stores. Carlos works five days a week.

Carlos' mother now requires more care. Carlos and his sister agree to share her care over the week. Carlos is planning on working for another five years and is not yet ready to retire. He and his sister have put together a plan which will allow him to continue working three days a week.

When Carlos explains the situation to Silvia she is very understanding. She thinks that this presents a good opportunity to start training a new person. Silvia advertises at the local TAFE for a delivery driver. After interviewing a number of applicants she hires Renata.

Renata is studying floristry and jumps at the opportunity to work for Silvia. For her first week she and Carlos deliver all of the orders together so that he can introduce her to all of Silvia's wholesale customers and show her the best routes to take for deliveries.

Carlos and Renata work alternate days so it is important that they are able to communicate from day to day. Renata sets up a whiteboard that captures the booked orders by day, and allows messages to be passed on. Carlos and Renata develop a good working relationship and through her delivery role, Renata is also able to start working in the shopfront for Silvia on Saturdays, gaining valuable experience.



The checklist below is designed to assist employers and work providers ensure that their processes promote the inclusion of older workers in a multigenerational workforce.

| Questions |
|--|
| <p>Recruitment</p> <p>1. Are your recruitment processes age-neutral? Consider the role of applications, delivery of tests, and the composition of interview panels.</p> |
| <p>Training and professional development</p> <p>2. Are training and professional development opportunities open to all workers regardless of age?</p> |
| <p>Promotions</p> <p>3. Are your promotion or advancement processes age-neutral?</p> |
| <p>Flexible work</p> <p>4. Do you offer flexible work arrangements?</p> <p>5. If you do offer flexible work arrangements, are these available to, or promoted, to all workers regardless of their age?</p> <p>6. Do you have a transition to retirement process or program? Does this program encompass flexible work arrangements?</p> |

05 Further information



Endnotes

National Information Service

If you require further information please contact the Commission's **National Information Service** (NIS). The NIS provides information and referrals for individuals, organisations and employers about a range of human rights and discrimination issues.

Phone 1300 656 419 or (02) 9284 9888 to access this service.

Complaints process

The Commission can also investigate complaints about discrimination and other human rights breaches. The complaints process is simple, free and flexible. For further information on the complaints process please visit the Commission's **website**.

Training

The Commission can also provide assistance in the form of diversity and inclusion training workshops and educational resources. For more information please contact us by sending an email to **training@humanrights.gov.au**.



- 1 In January 2018, Australians aged 65 and over had a workforce participation rate of 13% (17% for men and 10% for women), compared with 8% in 2006 (12% for men and 4% for women). See Australian Institute of Health and Welfare, *Older Australians at a Glance* (10 September 2018) <<https://www.aihw.gov.au/reports/older-people/older-australia-at-a-glance/contents/demographics-of-older-australians>>.
- 2 Australian HR Institute, *Employing Older Workers Report* (2018) 18 <<https://www.humanrights.gov.au/our-work/age-discrimination/publications/employing-older-workers-2018>>.
- 3 Australian Human Rights Commission, *2016-2017 Complaint Statistics* (2017) https://www.humanrights.gov.au/sites/default/files/AHRC_Complaints_AR_Stats_Tables%202016-2017.pdf.
- 4 *Age Discrimination Act 2004* (Cth) s 5 (definition of 'age').
- 5 *Age Discrimination Act 2004* (Cth) s 14. If an act (that is, an act of discrimination) is done for two or more reasons and one of those reasons is the age of the person (or a characteristic that is generally associated with a person of that age) the act will still be considered discrimination on the basis of age.
- 6 *Age Discrimination Act 2004* (Cth) s 15(1).
- 7 *Age Discrimination Act 2004* (Cth) s 15(2).
- 8 Employer also refers to a person 'purporting to act on behalf of an employer.' See *Age Discrimination Act 2004* (Cth) s 18.
- 9 *Age Discrimination Act 2004* (Cth) s 18(1).
- 10 Employer also refers to a person 'purporting to act on behalf of an employer.' See *Age Discrimination Act 2004* (Cth) s 18.
- 11 *Age Discrimination Act 2004* (Cth) s 18(2).
- 12 'Premises' includes a structure, building, aircraft, vehicle or vessel, place, or part of a premises. See *Age Discrimination Act 2004* (Cth) s 5 (definition of 'premises').
- 13 *Age Discrimination Act 2004* (Cth) s 18(3).
- 14 *Age Discrimination Act 2004* (Cth) s 18(4).
- 15 *Age Discrimination Act 2004* (Cth) s 18(4).
- 16 *Age Discrimination Act 2004* (Cth) s 18(5).
- 17 'Services' is broadly defined and includes the provision of financial services, entertainment, recreation, transport, telecommunications, professional services and government services. See *Age Discrimination Act 2004* (Cth) s 5 (definition of 'services').
- 18 'Commonwealth employee' is broadly defined and includes those appointed and engaged under the *Public Service Act 1999* (Cth), members of the intelligence services, members of the Defence Force and Australian Federal Police Commissioners, Deputy Commissioners, employees and special members. See *Age Discrimination Act 2004* (Cth) s 5 (definition of 'Commonwealth employee').
- 19 'Instrumentality of a state' is a 'body or authority established for a public purpose by a law of a State and includes a local government body'. See *Age Discrimination Act 2004* (Cth) s 5 (definition of 'instrumentality of a state').
- 20 *Age Discrimination Act 2004* (Cth) s 19(1).
- 21 *Age Discrimination Act 2004* (Cth) s 19(2).
- 22 *Age Discrimination Act 2004* (Cth) s 19(3).
- 23 *Age Discrimination Act 2004* (Cth) s 19(3).
- 24 *Age Discrimination Act 2004* (Cth) s 19(4).
- 25 *Age Discrimination Act 2004* (Cth) s 19(5) (definition of 'commission agent').
- 26 *Age Discrimination Act 2004* (Cth) s 19(5) (definition of 'principal').
- 27 *Age Discrimination Act 2004* (Cth) s 20(1).
- 28 *Age Discrimination Act 2004* (Cth) s 20(2).
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- 43 *Age Discrimination Act 2004* (Cth) s 32.
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- 47 *Age Discrimination Act 2004* (Cth) ss 34, 35, 36.
- 48 *Age Discrimination Act 2004* (Cth) ss 37, 38.

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- 51 *Age Discrimination Act 2004* (Cth) s 41A.
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- 53 *Age Discrimination Act 2004* (Cth) s 25.
- 54 Australian Human Rights Commission, *Temporary exemptions under the Age Discrimination Act* (2010) <<https://www.humanrights.gov.au/temporary-exemptions-under-age-discrimination-act-2004-cth>>.
- 55 *Age Discrimination Act 2004* (Cth) s 44.
- 56 It is also an offence not to disclose the source of actuarial or statistical data within 28 days of being asked to by the President of the Commission or the Commission. See *Age Discrimination Act 2004* (Cth) s 52.
- 57 *Age Discrimination Act 2004* (Cth) s 50(1).
- 58 *Age Discrimination Act 2004* (Cth) s 50(1)(b).
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Further Information

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