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Good practice, good business

## A quick guide to Australian discrimination laws

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Over the past 30 years the Commonwealth Government and the state and territory governments have introduced laws to help protect people from discrimination and harassment.

The following laws operate at a federal level and the Australian Human Rights Commission has statutory responsibilities under them:

- *Age Discrimination Act 2004*
- *Australian Human Rights Commission Act 1986*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984.*

The following laws operate at a state and territory level, with state and territory equal opportunity and anti-discrimination agencies having statutory responsibilities under them:

- Australian Capital Territory – *Discrimination Act 1991*
- New South Wales – *Anti-Discrimination Act 1977*
- Northern Territory – *Anti-Discrimination Act 1992*
- Queensland – *Anti-Discrimination Act 1991*
- South Australia – *Equal Opportunity Act 1984*
- Tasmania – *Anti-Discrimination Act 1998*
- Victoria – *Equal Opportunity Act 2010*
- Western Australia – *Equal Opportunity Act 1984.*

Commonwealth laws and the state/territory laws generally overlap and prohibit the same type of discrimination. As both state/territory laws and Commonwealth laws apply, you must comply with both. Unfortunately, the laws apply in slightly different ways and there are some gaps in the protection that is offered between different states and territories and at a Commonwealth level. To work out your obligations you will need to check the Commonwealth legislation and the state or territory legislation in each state in which you operate.

You will also need to check the exemptions and exceptions in both the Commonwealth and state/territory legislation as an exemption or exception under one Act will not mean you are exempt under the other.

For example, see the attached schedule of coverage.

See the tables below for detailed information on each federal, state and territory Act.

## Further information

### **Australian Human Rights Commission**

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SYDNEY NSW 2000

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SYDNEY NSW 2001

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National Information Service: 1300 656 419  
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Email: [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au)

Website: [www.humanrights.gov.au/employers](http://www.humanrights.gov.au/employers)

These documents provide general information only on the subject matter covered. It is not intended, nor should it be relied on, as a substitute for legal or other professional advice. If required, it is recommended that the reader obtain independent legal advice. The information contained in these documents may be amended from time to time.

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## **Federal laws**

Legislation and grounds of discrimination	Areas covered
<p><b><i>Australian Human Rights Commission Act 1986</i></b></p> <p>Discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, age, medical record, criminal record, marital or relationship status, impairment, mental, intellectual or psychiatric disability, physical disability, nationality, sexual orientation, and trade union activity.</p> <p>Also covers discrimination on the basis of the imputation of one of the above grounds.</p>	<p>Discrimination in employment or occupation.</p>
<p><b><i>Age Discrimination Act 2004</i></b></p> <p>Discrimination on the basis of age – protects both younger and older Australians.</p> <p>Also includes discrimination on the basis of age-specific characteristics or characteristics that are generally imputed to a person of a particular age.</p>	<p>Discrimination in employment, education, access to premises, provision of goods, services and facilities, accommodation, disposal of land, administration of Commonwealth laws and programs, and requests for information.</p>
<p><b><i>Disability Discrimination Act 1992</i></b></p> <p>Discrimination on the basis of physical, intellectual, psychiatric, sensory, neurological or learning disability, physical disfigurement, disorder, illness or disease that affects thought processes, perception of reality, emotions or judgement, or results in disturbed behaviour, and presence in body of organisms causing or capable of causing disease or illness (eg, HIV virus).</p> <p>Also covers discrimination involving harassment in employment, education or the provision of goods and services.</p>	<p>Discrimination in employment, education, access to premises, provision of goods, services and facilities, accommodation, disposal of land, activities of clubs, sport, and administration of Commonwealth laws and programs.</p>

Legislation and grounds of discrimination	Areas covered
<p><b><i>Racial Discrimination Act 1975</i></b></p> <p>Discrimination on the basis of race, colour, descent or national or ethnic origin and in some circumstances, immigrant status.</p> <p>Racial hatred, defined as a public act/s likely to offend, insult, humiliate or intimidate on the basis of race, is also prohibited under this Act unless an exemption applies.</p>	<p>Discrimination in all areas of public life including employment, provision of goods and services, right to join trade unions, access to places and facilities, land, housing and other accommodation, and advertisements.</p>
<p><b><i>Sex Discrimination Act 1984</i></b></p> <p>Discrimination on the basis of sex, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, family responsibilities, sexual orientation, gender identity, and intersex status.</p> <p>Sexual harassment is also prohibited under this Act.</p>	<p>Discrimination in employment, including discrimination against commission agents and contract workers, partnerships, qualifying bodies, registered organisations, employment agencies, education, provision of goods, services and facilities, accommodation, disposal of land, clubs, administration of Commonwealth laws and programs, and superannuation.</p>
<p><b><i>Fair Work Act 2009</i></b></p> <p>Discrimination on the basis of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer responsibilities, pregnancy, religion, political opinion, national extraction, and social origin.</p>	<p>Discrimination, via adverse action, in employment including dismissing an employee, not giving an employee legal entitlements such as pay or leave, changing an employee's job to their disadvantage, treating an employee differently than others, not hiring someone, or offering a potential employee different (and unfair) terms and conditions for the job compared to other employees.</p>

## **State and territory laws**

Legislation and grounds of discrimination	Areas covered
<p><b>Australian Capital Territory: <i>Discrimination Act 1991 (ACT)</i></b></p> <p>Discrimination on the basis of sex, sexuality, gender identity, relationship status, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability, including aid of assistance animal, industrial activity, age, profession, trade, occupation or calling, spent conviction, and association (as a relative or otherwise) with a person who has one of the above attributes.</p> <p>Sexual harassment and vilification on the basis of race, sexuality, gender identity or HIV/AIDS status are also prohibited under this Act.</p>	<p>Discrimination in employment, including discrimination against commission agents and contract workers, partnerships, professional or trade organisations, qualifying bodies, employment agencies, education, access to premises, provision of goods, services or facilities, accommodation, clubs, and requests for information.</p>
<p><b>New South Wales: <i>Anti-Discrimination Act 1977 (NSW)</i></b></p> <p>Discrimination on the basis of race, including colour, nationality, descent and ethnic, ethno-religious or national origin, sex, including pregnancy and breastfeeding, marital or domestic status, disability, homosexuality, age, transgender status, and carer responsibilities.</p> <p>Sexual harassment and vilification on the basis of race, homosexuality, transgender status or HIV/AIDS status are also prohibited under this Act.</p>	<p>Discrimination in employment, including discrimination against commission agents and contract workers, partnerships, industrial organisations, qualifying bodies, employment agencies, education, provision of goods and services, accommodation, and registered clubs.</p>
<p><b>Northern Territory: <i>Anti-Discrimination Act 1992 (NT)</i></b></p> <p>Discrimination on the basis of race, sex, sexuality, age, marital status, pregnancy, parenthood, breastfeeding, impairment, trade union or employer association activity, religious belief or activity, irrelevant criminal record, political opinion, affiliation or activity, irrelevant medical record, and association with person with an above attribute.</p> <p>Sexual harassment is also prohibited under this Act.</p>	<p>Discrimination in education, work, accommodation, provision of goods, services and facilities, clubs, insurance, and superannuation.</p>

Legislation and grounds of discrimination	Areas covered
<p><b>Queensland: <i>Anti-Discrimination Act 1991 (QLD)</i></b></p> <p>Discrimination on the basis of sex, relationship status, pregnancy, parental status, breastfeeding, race, age, impairment, religious belief or religious activity, political belief or activity, trade union activity, lawful sexual activity, gender identity, sexuality, family responsibilities, and association with or in relation to a person who has any of the above attributes.</p> <p>Sexual harassment and vilification on the basis of race, religion, sexuality or gender identity are also prohibited under this Act.</p>	<p>Discrimination in work and work-related areas (paid and unpaid), education, provision of goods and services, superannuation and insurance, disposal of land, accommodation; club membership and affairs, administration of state laws and programs, local government, qualifications, industrial, trade, professional or business organisation membership, and existing partnership and in pre-partnership.</p>
<p><b>South Australia: <i>Equal Opportunity Act 1984 (SA)</i></b></p> <p>Discrimination on the basis of sex, breastfeeding, including bottle feeding, chosen gender, sexuality, marital or domestic partnership status, pregnancy, race, age, disability, including aid of assistance animal, association with a child, caring responsibilities, religious appearance or dress, and spouse or partner's identity.</p> <p>Sexual harassment is also prohibited under this Act.</p>	<p>Discrimination in employment, partnerships, clubs and associations, qualifying bodies, education, provision of goods and services, accommodation, sale of land, advertising (including employment agencies), conferral of qualifications, and superannuation.</p>
<p><b>Tasmania: <i>Anti-Discrimination Act 1998 (TAS)</i></b></p> <p>Discrimination on the basis of age, breastfeeding, disability, family responsibilities, gender, gender identity, intersex status, industrial activity, irrelevant criminal record, irrelevant medical record, lawful sexual activity, marital status, relationship status, parental status, political activity, political belief or affiliation, pregnancy, race, religious activity, religious belief or affiliation, sexual orientation, and association with a person who has, or is believed to have, any of these attributes.</p> <p>Sexual harassment and the incitement of hatred on the basis of race, disability, sexual orientation, lawful sexual activity, or religious belief, affiliation or activity are also prohibited under this Act.</p>	<p>Discrimination in employment (paid and unpaid), education and training, provision of facilities, goods and services, accommodation, membership and activities of clubs, administration of any law of the State or any State program, and awards, enterprise agreements and industrial agreements.</p>



Legislation and grounds of discrimination	Areas covered
<p><b>Victoria: <i>Equal Opportunity Act 2010</i> (VIC)</b></p> <p>Discrimination on the basis of age, breastfeeding, disability, employment activity, gender identity, industrial activity, lawful sexual activity, marital status, parental status or status as a carer, physical features, political belief or activity, pregnancy, race (including colour, nationality, ethnicity and ethnic origin), religious belief or activity, sex, sexual orientation, and personal association with someone who has, or is assumed to have, any of these personal characteristics.</p> <p>Sexual harassment is also prohibited under this Act.</p> <p><b>Victoria: <i>Racial and Religious Tolerance Act 2001</i> (VIC)</b></p> <p>Vilification on the basis of race or religion is prohibited under this Act.</p>	<p>Discrimination in employment, partnerships, firms, qualifying bodies, industrial organisations, education, provision of goods and services, disposal of land, accommodation (including alteration of accommodation), clubs, sport, and local government.</p>
<p><b>Western Australia: <i>Equal Opportunity Act 1984</i> (WA)</b></p> <p>Discrimination on the basis of sex, sexual orientation (including by association), marital status, pregnancy, breastfeeding, race, religious or political conviction, age (including by association), impairment (including by association), family responsibility or family status, gender history, and publication of relevant details on Fines Enforcement Registrar's website.</p> <p>Sexual harassment and racial harassment are also prohibited under this Act.</p> <p><b>Western Australia: <i>Spent Convictions Act 1988</i> (WA)</b></p> <p>Discrimination on the basis of having a spent conviction is prohibited under this Act.</p>	<p>Discrimination in employment, including against applicants, commission agents and contract workers, partnerships, professional or trade organisations, qualifying bodies, employment agencies, application forms, advertisements, education, access to places and vehicles, provision of goods, services and facilities, accommodation, clubs, and land.</p>