

### 351 Discrimination

- (1) An employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person's race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (2) However, subsection (1) does not apply to action that is:
- (a) not unlawful under any anti-discrimination law in force in the place where the action is taken; or
  - (b) taken because of the inherent requirements of the particular position concerned; or
  - (c) if the action is taken against a staff member of an institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed—taken:
    - (i) in good faith; and
    - (ii) to avoid injury to the religious susceptibilities of adherents of that religion or creed.
- (3) Each of the following is an *anti-discrimination law*:
- (aa) the *Age Discrimination Act 2004*;
  - (ab) the *Disability Discrimination Act 1992*;
  - (ac) the *Racial Discrimination Act 1975*;
  - (ad) the *Sex Discrimination Act 1984*;
  - (a) the *Anti-Discrimination Act 1977* of New South Wales;
  - (b) the *Equal Opportunity Act 2010* of Victoria;
  - (c) the *Anti-Discrimination Act 1991* of Queensland;
  - (d) the *Equal Opportunity Act 1984* of Western Australia;
  - (e) the *Equal Opportunity Act 1984* of South Australia;
  - (f) the *Anti-Discrimination Act 1998* of Tasmania;
  - (g) the *Discrimination Act 1991* of the Australian Capital Territory;
  - (h) the *Anti-Discrimination Act* of the Northern Territory.

### Subdivision B—Other contraventions

#### 372 Application for the FWC to deal with a non-dismissal dispute

If:

- (a) a person alleges a contravention of this Part; and
- (b) the person is not entitled to apply to the FWC under section 365 for the FWC to deal with the dispute;

the person may apply to the FWC under this section for the FWC to deal with the dispute.

#### 373 Application fees

- (1) The application must be accompanied by any fee prescribed by the regulations.

- (2) The regulations may prescribe:
  - (a) a fee for making an application to the FWC under section 372; and
  - (b) a method for indexing the fee; and
  - (c) the circumstances in which all or part of the fee may be waived or refunded.

#### **374 Conferences**

- (1) If:
  - (a) an application is made under section 372; and
  - (b) the parties to the dispute agree to participate;the FWC must conduct a conference to deal with the dispute.

Note 1: For conferences, see section 592.

Note 2: The FWC may deal with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion (see subsection 595(2)).

- (2) Despite subsection 592(3), the FWC must conduct the conference in private.

#### **375 Advice on general protections court application**

If the FWC considers, taking into account all the materials before it, that a general protections court application in relation to the dispute would not have a reasonable prospect of success, it must advise the parties accordingly.