

*Your responses suggest that the law of General Protection applies in your circumstances. So, it may be unlawful for your prospective employer to refuse your employment.*

## Division 3—Workplace rights

### *Prospective employees taken to have workplace rights*

- (3) A prospective employee is taken to have the workplace rights he or she would have if he or she were employed in the prospective employment by the prospective employer.

Note: Among other things, the effect of this subsection would be to prevent a prospective employer making an offer of employment conditional on entering an individual flexibility arrangement.

### *Exceptions relating to prospective employees*

- (5) Despite paragraph (1)(a), a prospective employer does not contravene subsection 340(1) if the prospective employer refuses to employ a prospective employee because the prospective employee would be entitled to the benefit of Part 2-8 or 6-3A (which deal with transfer of business).

## 340 Protection

- (1) A person must not take adverse action against another person:
- (a) because the other person:
- (i) has a workplace right; or
  - (ii) has, or has not, exercised a workplace right; or
  - (iii) proposes or proposes not to, or has at any time proposed or proposed not to, exercise a workplace right; or
- (b) to prevent the exercise of a workplace right by the other person.

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

- (2) A person must not take adverse action against another person (the ***second person***) because a third person has exercised, or proposes or has at any time proposed to exercise, a workplace right for the second person's benefit, or for the benefit of a class of persons to which the second person belongs.

- (1) The following table sets out circumstances in which a person takes ***adverse action*** against another person.

---

### Meaning of *adverse action*

---

Item	Column 1	Column 2
	<i>Adverse action is taken by ...</i>	<i>if ...</i>

---

	2	a prospective employer against a prospective employee	the prospective employer: (a) refuses to employ the prospective employee; or (b) discriminates against the prospective employee in the terms or conditions on which the prospective employer offers to employ the prospective employee.
--	---	---	---