

772 Employment not to be terminated on certain grounds

- (1) An employer must not terminate an employee's employment for one or more of the following reasons, or for reasons including one or more of the following reasons:
- (a) temporary absence from work because of illness or injury of a kind prescribed by the regulations;
 - (b) trade union membership or participation in trade union activities outside working hours or, with the employer's consent, during working hours;
 - (c) non-membership of a trade union;
 - (d) seeking office as, or acting or having acted in the capacity of, a representative of employees;
 - (e) the filing of a complaint, or the participation in proceedings, against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
 - (f) 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;
 - (g) absence from work during maternity leave or other parental leave;
 - (h) temporary absence from work for the purpose of engaging in a voluntary emergency management activity, where the absence is reasonable having regard to all the circumstances.

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

- (2) However, subsection (1) does not prevent a matter referred to in paragraph (1)(f) from being a reason for terminating a person's employment if:
- (a) the reason is based on the inherent requirements of the particular position concerned; or
 - (b) if the person is a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed—the employment is terminated:
 - (i) in good faith; and
 - (ii) to avoid injury to the religious susceptibilities of adherents of that religion or creed.
- (3) To avoid doubt, if:
- (a) an employer terminates an employee's employment; and
 - (b) the reason, or a reason, for the termination is that the position held by the employee no longer exists, or will no longer exist; and
 - (c) the reason, or a reason, that the position held by the employee no longer exists, or will no longer exist, is the employee's absence, or proposed or probable absence, during maternity leave or other parental leave;

the employee's employment is taken, for the purposes of paragraph (1)(g), to have been terminated for the reason, or for reasons including the reason, of absence from work during maternity leave or other parental leave.

	<p>(4) For the purposes of subsection (1), subsection 109(2) (which deals with the meaning of <i>voluntary emergency management activity</i>) has effect as if the word employee had its ordinary meaning.</p>
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