

## 25 Genuine occupational requirements

- (1) A person may impose genuine occupational requirements for a position.

*Examples of genuine requirements for a position—*

*Example 1—*

selecting an actor for a dramatic performance on the basis of age, race or sex for reasons of authenticity

*Example 2—*

using membership of a particular political party as a criterion for a position as an adviser to a political party or a worker in the office of a member of Parliament

*Example 3—*

considering only women applicants for a position involving body searches of women

*Example 4—*

employing persons of a particular religion to teach in a school established for students of the particular religion

- (2) Subsection (3) applies in relation to—
- (a) work for an educational institution (an *employer*) under the direction or control of a body established for religious purposes; or
  - (b) any other work for a body established for religious purposes (also an *employer*) if the work genuinely and necessarily involves adhering to and communicating the body's religious beliefs.
- (3) It is not unlawful for an employer to discriminate with respect to a matter that is otherwise prohibited under section 14 or 15, in a way that is not unreasonable, against a person if—
- (a) the person openly acts in a way that the person knows or ought reasonably to know is contrary to the employer's religious beliefs—
    - (i) during a selection process; or
    - (ii) in the course of the person's work; or
    - (iii) in doing something connected with the person's work; and

*Example for paragraph (a)—*

A staff member openly acts in a way contrary to a requirement imposed by the staff member's employer in his or her contract of employment, that the staff member abstain from acting in a way openly contrary to the employer's religious beliefs in the course of, or in connection with the staff member's employment.

Anti-Discrimination Act 1991  
Chapter 2 Discrimination prohibited by this Act (complaint)  
Part 4 Areas of activity in which discrimination is prohibited

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*Example 2—*

using membership of a particular political party as a criterion for a position as an adviser to a political party or a worker in the office of a member of Parliament

*Example 3—*

considering only women applicants for a position involving body searches of women

*Example 4—*

employing persons of a particular religion to teach in a school established for students of the particular religion

- (2) Subsection (3) applies in relation to—
- (a) work for an educational institution (an *employer*) under the direction or control of a body established for religious purposes; or
  - (b) any other work for a body established for religious purposes (also an *employer*) if the work genuinely and necessarily involves adhering to and communicating the body's religious beliefs.
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- (a) the person openly acts in a way that the person knows or ought reasonably to know is contrary to the employer's religious beliefs—
    - (i) during a selection process; or
    - (ii) in the course of the person's work; or
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*Example for paragraph (a)—*

A staff member openly acts in a way contrary to a requirement imposed by the staff member's employer in his or her contract of employment, that the staff member abstain from acting in a way openly contrary to the employer's religious beliefs in the course of, or in connection with the staff member's employment.