

ALERT

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New Victorian Equal Opportunity Legislation: Update

On 1 December 2010 we issued an alert about the new *Victorian Equal Opportunity Act 2010 (Act)*, the substantive provisions of which come into force on 1 August this year.

By way of a reminder, some of the key changes introduced by this new Act include:

- introduction of a positive obligation on employers to eliminate discrimination, sexual harassment and victimisation;
- simplifying the definitions of discrimination;
- revised role for the Victorian Equal Opportunity and Human Rights Commission (**Commission**);
- amendments to the exceptions and exemptions available to allow what would otherwise be unlawful discrimination;
- volunteers to be covered by the sexual harassment provisions in the Act for the first time;
- duty to make reasonable adjustments for employees with an impairment.

However, a number of the proposed changes have been watered down by the newly elected Baillieu government.

Certain exemptions and exceptions from unlawful discrimination have been re-examined. We had reported that the new Act would only allow religious bodies and schools to discriminate against people in employment situations if conformity with a particular requirement was an 'inherent requirement' of the particular position. This requirement has now been removed.

In relation to exemptions, the new Act also makes clear that employers can pay under 21s junior rates based on their age and this will not amount to unlawful discrimination.

One of the main changes to the role of the Commission in the original Act was to give it the power to conduct public inquiries and investigations; as a result of the recent amendments, this power has now been scrapped.

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