



Affirmative Action (Equal Employment Opportunity for Women) Act 1986

No. 91 of 1986

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Extension to Norfolk Island
5. Application of Act

PART II—AFFIRMATIVE ACTION PROGRAMS

6. Employers required to develop, &c., affirmative action programs
7. Timing for development, &c., of affirmative action program
8. Contents of affirmative action program

PART III—OFFICE, FUNCTIONS AND POWERS OF DIRECTOR

9. Office of Director
10. Functions and powers of Director
11. Directions by Minister
12. Director to submit reports to Minister

PART IV—REPORTS BY RELEVANT EMPLOYERS

13. Public reports
14. Confidential reports
15. Use of public report
16. Request to relevant employer
17. Director may grant extensions
18. Request for further information
19. Failure to submit report or further information

TABLE OF PROVISIONS—*continued*

Section

PART V—DIRECTOR OF AFFIRMATIVE ACTION

- 20. Appointment of Director
- 21. Tenure of Director
- 22. Remuneration and allowances
- 23. Leave of absence
- 24. Outside employment
- 25. Resignation
- 26. Termination of appointment
- 27. Disclosure of interest
- 28. Acting appointment

PART VI—MISCELLANEOUS

- 29. Staff
- 30. Consultants
- 31. Advisory committees
- 32. Non-disclosure of confidential information
- 33. Delegation
- 34. Regulations



Affirmative Action (Equal Employment Opportunity for Women) Act 1986

No. 91 of 1986

An Act to require certain employers to promote equal opportunity for women in employment, to establish the office of the Director of Affirmative Action, and for related purposes

[Assented to 3 September 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986*.

Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“affirmative action program”, in relation to a relevant employer, means a program designed to ensure that—

- (a) appropriate action is taken to eliminate discrimination by the relevant employer against women in relation to employment matters; and
- (b) measures are taken by the relevant employer to promote equal opportunity for women in relation to employment matters;

“authority” means—

- (a) a body (whether incorporated or not) established for a public purpose by or under a law of the Commonwealth or of a State or Territory, other than a higher education institution;
- (b) the holder of an office established for a public purpose by or under a law of the Commonwealth or of a State or Territory; and
- (c) an incorporated company over which the Commonwealth, a State, a Territory or a body referred to in paragraph (a) is in a position to exercise control;

“appoint” includes re-appoint;

“club” means an association (whether incorporated or not) of not less than 30 persons associated together for social, literary, cultural, political, sporting, athletic or other lawful purposes that—

- (a) provides and maintains its facilities, in whole or in part, from the funds of the association; and
- (b) sells or supplies liquor for consumption on its premises;

“confidential report” means a confidential report referred to in section 14;

“discrimination” means discrimination as defined in section 5, 6 or 7 of the *Sex Discrimination Act 1984*;

“Director” means the Director of Affirmative Action;

“employer” means a person who employs a natural person—

- (a) under a contract of service, whether on a full-time, part-time, casual or temporary basis; or
- (b) under a contract for services;

“employment matters” includes—

- (a) the recruitment procedure, and selection criteria, for appointment or engagement of persons as employees;
- (b) the promotion and transfer of employees;
- (c) training and staff development for employees; and
- (d) conditions of service of employees;

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

“higher education institution” means a university, college of advanced education or other institution of tertiary education (other than a technical and further education institution within the meaning of the *Commonwealth Tertiary Education Commission Act 1977*);

“operative day”, in relation to a relevant employer, means the day specified in relation to that employer in section 7;

“public report” means a public report referred to in section 13;

“relevant employer” means—

- (a) a higher education institution that is an employer; or
- (b) a natural person, or a body or association (whether incorporated or not), being the employer of 100 or more employees in Australia,

but does not include the Commonwealth, a State, a Territory, an authority or a voluntary body;

“trade union” means—

- (a) an organization of employees registered pursuant to the *Conciliation and Arbitration Act 1904*; or
- (b) a trade union within the meaning of a State Act or law of a Territory;

“voluntary body” means a body or association (whether incorporated or not) the activities of which are not engaged in for the purpose of making a profit, but does not include—

- (a) a club;
- (b) a trade union;
- (c) an association that provides grants, loans, credit or finance to its members;
- (d) a higher education institution; or
- (e) the holder of a licence under the *Broadcasting Act 1942*;

“woman” means a member of the female sex irrespective of age.

(2) For the purpose of paragraph (b) of the definition of “relevant employer” in sub-section (1)—

- (a) a corporation employs a person where the person is employed by another corporation which is a subsidiary of the first-mentioned corporation; and
- (b) the question whether a corporation is a subsidiary of another corporation shall be determined as it would be determined for the purposes of the *Companies Act 1981*.

(3) Where, in accordance with section 4, this Act extends to Norfolk Island, a reference in this Act to Australia includes a reference to Norfolk Island.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

(4) Nothing in this Act shall be taken to require a relevant employer to take any action incompatible with the principle that employment matters should be dealt with on the basis of merit.

Extension to Norfolk Island

4. If, and so long as, the regulations so prescribe, this Act extends to Norfolk Island.

Application of Act

5. (1) Without prejudice to its effect apart from this section, this Act also has effect as provided by this section.

(2) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with trade and commerce—

- (a) between Australia and a place outside Australia;
- (b) between the States; or
- (c) within a Territory, between a State and a Territory, or between two Territories.

(3) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with broadcasting or televising within the meaning of the *Broadcasting Act 1942*.

(4) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to an affirmative action program were, by express provision, confined to a program for the gathering of statistics and related information concerning employment by a relevant employer.

(5) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with the business of banking, other than State banking that does not extend beyond the limits of the State concerned.

(6) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in connection with the business of insurance, other than State insurance that does not extend beyond the limits of the State concerned.

(7) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to a relevant employer were, by express provision, confined to a relevant employer that is a foreign corporation, or a trading or financial corporation formed within the limits of the Commonwealth.

(8) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment by a relevant employer were, by express provision, confined to employment by a trading or financial

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

corporation formed within the limits of the Commonwealth, being employment in connection with the trading or financial activities, as the case may be, of that corporation.

(9) By virtue of this sub-section, this Act has the effect it would have to the extent that this Act is appropriate to give effect to, or carry out the purposes of, the Convention on the Elimination of all Forms of Discrimination Against Women, a copy of the English text of which is set out in the Schedule to the *Sex Discrimination Act 1984*.

(10) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to employment were, by express provision, confined to employment in a Territory.

(11) By virtue of this sub-section, this Act has the effect it would have if each reference in this Act to a relevant employer were, by express provision, confined to a relevant employer that is a corporation incorporated in a Territory.

(12) In this section, “foreign corporation” and “trading or financial corporation” have the same meanings as in paragraph 51 (xx) of the Constitution.

PART II—AFFIRMATIVE ACTION PROGRAMS

Employers required to develop, &c., affirmative action programs

6. (1) An employer who, on the commencement of this Act, is a relevant employer shall commence the development and implementation of an affirmative action program on the operative day.

(2) Where, after the commencement of this Act, an employer becomes a relevant employer, the relevant employer shall commence the development and implementation of an affirmative action program on the operative day.

(3) Where, at any time, an employer ceases to be a relevant employer because the number of employees of the employer falls below 100, this Act continues to have effect in relation to the employer as if the employer were a relevant employer unless and until the number of employees falls below 80.

Timing for development, &c., of affirmative action program

7. (1) For the purposes of sub-section 6 (1), the operative day for a relevant employer is—

- (a) in the case of a higher education institution—1 August 1986 or such later day as is prescribed; and
- (b) in the case of a relevant employer (other than a higher education institution) who, on the commencement of this Act, employs in Australia—
 - (i) 1,000 or more employees—1 February 1987;

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

- (ii) 500 or more employees but not more than 999 employees—
1 February 1988; or
- (iii) 100 or more employees but not more than 499 employees—
1 February 1989.

(2) For the purposes of sub-section 6 (2), the operative day for an employer that becomes a relevant employer is—

- (a) in the case of a higher education institution—1 August; and
- (b) in any other case—1 February,

in the calendar year following the calendar year during which the employer becomes a relevant employer.

Contents of affirmative action program

8. (1) Without limiting the generality of the definition of “affirmative action program” in sub-section 3 (1), the affirmative action program of a relevant employer shall provide for action to be taken—

- (a) for the issue to the employees, by a senior officer concerned with the management of the relevant employer, of a statement to the effect that the employer, in accordance with this Act, commenced the development and implementation of an affirmative action program on a specified day, being the operative day in relation to the employer;
- (b) to confer responsibility for the development and implementation of the program (including a continuous review of the program), on a person or persons having sufficient authority and status within the management of the relevant employer to enable the person or persons properly to develop and implement the program;
- (c) to consult with each trade union having members affected by the proposal for the development and implementation of the program in accordance with this Act;
- (d) to consult with employees of the relevant employer, particularly employees who are women;
- (e) for the collection and recording of statistics and related information concerning employment by the relevant employer, including the number of employees of either sex and the types of jobs undertaken by, or job classifications of, employees of either sex;
- (f) to consider policies, and examine practices, of the relevant employer, in relation to employment matters to identify—
 - (i) any policies or practices that constitute discrimination against women; and
 - (ii) any patterns (whether ascertained statistically or otherwise) of lack of equality of opportunity in respect of women;
- (g) to set objectives and make forward estimates in the program; and
- (h) to monitor and evaluate the implementation of the program and to assess the achievement of those objectives and forward estimates.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

(2) An affirmative action program of a relevant employer may contain any other provision that the relevant employer thinks fit that is not inconsistent with—

- (a) a provision required by this section to be included; and
- (b) the purposes of this Act.

(3) In sub-section (1)—

“forward estimate” means a quantitative measure or aim, which may be expressed in numerical terms, designed to achieve equality of opportunity for women in employment matters, being a measure or aim that can reasonably be implemented by the relevant employer within a specified time;

“objective” means a qualitative measure or aim, expressed as a general principle, designed to achieve equality of opportunity for women in employment matters, being a measure or aim that can reasonably be implemented by the relevant employer within a specified time.

PART III—OFFICE, FUNCTIONS AND POWERS OF DIRECTOR

Office of Director

9. (1) There shall be a Director of Affirmative Action.

(2) The Director shall perform the functions conferred on the Director by this Act.

Functions and powers of Director

10. (1) The functions of the Director are—

- (a) to advise and assist relevant employers in the development and implementation of affirmative action programs;
- (b) to issue guidelines to assist relevant employers to achieve the purposes of this Act;
- (c) to monitor the lodging of reports by relevant employers as required by this Act and to review those reports and deal with them in accordance with this Act;
- (d) to monitor and evaluate the effectiveness of affirmative action programs in achieving the purposes of this Act;
- (e) to undertake research, educational programs and other programs for the purpose of promoting affirmative action to achieve equal employment opportunity for women;
- (f) to promote understanding and acceptance, and public discussion, of affirmative action to achieve equal employment opportunity for women;
- (g) to review the effectiveness of this Act in achieving its purposes; and

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

- (h) to report to the Minister on such matters in relation to affirmative action to achieve equal employment opportunity for women as the Director thinks fit (including a review under paragraph (g)).

(2) In addition to any other powers conferred on the Director by this Act, the Director has power to do all things necessary or convenient to be done for or in connection with the performance of the functions of the Director.

Directions by Minister

11. (1) The Director shall exercise the powers, and perform the functions, of the Director in accordance with general instructions given by the Minister in writing.

(2) Where the Minister gives a direction under sub-section (1), the Minister shall cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after the direction is given.

Director to submit reports to Minister

12. (1) The Director shall, as soon as practicable, and in any event within 6 months, after each 31 May, submit to the Minister a report on the operations of the Director during the year that ended on that 31 May.

(2) The Director may, from time to time, submit to the Minister—

- (a) a report on the operations of the Director during the period to which the report relates; or
- (b) a report in respect of any matter relating to, or connected with, the exercise of the powers, or the performance of the functions, of the Director under this Act.

(3) Where a report has been submitted to the Minister under sub-section (1) or (2), the Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

PART IV—REPORTS BY RELEVANT EMPLOYERS

Public reports

13. (1) A relevant employer shall prepare a public report—

- (a) in the case of the employer's first report—on the initial development and implementation of the employer's affirmative action program during the period of 12 months commencing on the operative day in respect of the relevant employer; and
- (b) in any other case—on the further development and implementation of the employer's affirmative action program during each period of 12 months commencing on the anniversary of the operative day in respect of the relevant employer.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

(2) A relevant employer shall lodge a public report with the Director within 3 months after the end of the period to which the report relates.

(3) A public report under sub-section (1) shall provide—

- (a) statistics and related information concerning employment by the relevant employer, including the number of employees of either sex and the types of jobs undertaken by, or job classifications of, employees of either sex; and
- (b) an outline of the processes undertaken by the relevant employer—
 - (i) in the case of the employer's first report—initially to develop and implement the employer's affirmative action program; and
 - (ii) in any other case—further to develop and implement the program.

Confidential reports

14. (1) Subject to sub-section (3), where a relevant employer lodges a public report under sub-section 13 (2), the employer shall, at the same time, lodge with the Director a separate confidential report in accordance with sub-section (2).

(2) A confidential report of a relevant employer shall provide a detailed analysis of the processes undertaken by the employer—

- (a) in the case of the employer's first report—initially to develop and implement the employer's affirmative action program; and
- (b) in any other case—further to develop and implement the program.

(3) Where a relevant employer has, in the employer's public report, provided a detailed analysis as described in sub-section (2), the employer need not lodge a separate confidential report under sub-section (1).

Use of public report

15. A public report, or a part of a public report (including a copy of the report or part of the report)—

- (a) shall be made available by the Director to a member of the public, on application; and
- (b) may be used, either in whole or in part, in a report of the Director under sub-section 12 (1) or (2).

Request to relevant employer

16. (1) The Director may, in writing, request that information which the relevant employer has included in a confidential report be made available to the public or for use, either in whole or in part, in a report of the Director under sub-section 12 (1) or (2).

(2) Where a relevant employer has received a request by the Director under sub-section (1), the relevant employer may, in writing, consent to—

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

- (a) the Director making that information available to the public; or
- (b) the Director using that information in a report of the Director under sub-section 12 (1) or (2),

subject to such conditions as the relevant employer specifies in the consent.

Director may grant extensions

17. (1) A relevant employer may, before the end of the 3 months within which the relevant employer is required to lodge with the Director a public report under sub-section 13 (2), apply to the Director to extend the period for a further period to enable the employer to lodge the public report or a confidential report.

(2) Where the Director—

(a) has received a request under sub-section (1) to extend a period in respect of a report; and

(b) considers that there are reasonable grounds for extending the period,

the Director may grant an extension in respect of the report for such period, not exceeding 6 months, as the Director thinks fit.

Request for further information

18. Where a public report or confidential report has been lodged with the Director by a relevant employer and, in the opinion of the Director, the information provided in the report by the employer fails to comply with sub-section 13 (3) or 14 (2), as the case may be, the Director may, by notice in writing, request the employer to provide further information within such period as is specified in the notice.

Failure to submit report or further information

19. (1) Where, without reasonable excuse, a relevant employer—

(a) fails to lodge a public report or confidential report as required by this Part; or

(b) fails to provide further information in accordance with a notice given under section 18,

the Director may, subject to sub-section (2), name the relevant employer in a report of the Director under sub-section 12 (1) or (2) as having failed to provide the report or further information, as the case may be.

(2) Where the Director proposes to name a relevant employer in a report under sub-section 12 (1) or (2), the Director shall, not less than 28 days before the day on which the report is submitted to the Minister, furnish the relevant employer with a notice in writing stating that the Director proposes so to name the employer and specifying the reasons for the proposal.

PART V—DIRECTOR OF AFFIRMATIVE ACTION

Appointment of Director

20. (1) The Director shall be appointed by the Governor-General.

(2) A person who has attained the age of 65 years shall not be appointed as the Director, and a person shall not be appointed as the Director for a period that extends beyond the day on which the person will attain the age of 65 years.

Tenure of Director

21. (1) The Director holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) The Director holds office, subject to this Part, on such terms and conditions as are determined by the Governor-General.

Remuneration and allowances

22. (1) The Director shall be paid—

- (a) such remuneration as is determined by the Remuneration Tribunal; and
- (b) such allowances as are prescribed.

(2) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Leave of absence

23. The Minister may grant leave of absence to the Director upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Outside employment

24. The Director shall not engage in paid employment outside the duties of the office of Director except with the approval of the Minister.

Resignation

25. The Director may resign the office of Director by writing signed and delivered to the Governor-General.

Termination of appointment

26. (1) The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2) If the Director—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

- (b) engages, except with the approval of the Minister, in paid employment outside the duties of the office of Director;
- (c) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months; or
- (d) without reasonable excuse, contravenes section 27,

the Governor-General shall terminate the appointment of the Director.

Disclosure of interest

27. The Director shall give written notice to the Minister of all direct or indirect pecuniary interests that the Director has or acquires in, or in relation to, a relevant employer.

Acting appointment

28. (1) The Minister may appoint a person to act as the Director—

- (a) during a vacancy in the office of Director (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office of Director,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) While a person is acting as the Director, the person has and may exercise all the powers, and shall perform all the functions, of the Director.

(3) An appointment of a person to act as Director may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as the Director; and
- (b) terminate such an appointment at any time.

(5) Where a person is acting as the Director otherwise than by reason of a vacancy in the office of Director, and the office of Director becomes vacant while the person is so acting, then, subject to sub-section (3), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(6) A person appointed to act as the Director may resign by writing signed and delivered to the Minister.

(7) The validity of anything done by or in relation to a person purporting to act as the Director shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

PART VI—MISCELLANEOUS

Staff

29. (1) The staff required for the purposes of this Act shall be persons appointed or employed under the *Public Service Act 1922*.

(2) The Director has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922* so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Australian Public Service.

Consultants

30. (1) The Director may, on behalf of the Commonwealth, engage as consultants to the Director persons having suitable qualifications and experience.

(2) The terms and conditions of engagement of persons engaged under sub-section (1) are such as are determined by the Director.

Advisory committees

31. (1) Subject to this section the Minister may, in consultation with the Director, establish such advisory committees as the Minister considers necessary for the purpose of giving advice to the Minister and to the Director on particular matters or classes of matters relating to affirmative action programs, functions of the Director or the operation of this Act.

(2) An advisory committee shall consist of such persons as the Minister from time to time appoints.

(3) For the purposes of assisting the Minister in the appointment of the members of an advisory committee, the Director may provide the Minister with a list of the names of persons—

- (a)** representing industry or business (including a part of an industry);
- (b)** representing trade unions;
- (c)** representing higher education institutions;
- (d)** representing organisations who represent women; or
- (e)** having special knowledge or interest in relation to affirmative action programs, the functions of the Director or the operation of this Act.

(4) A member of an advisory committee holds office for such period as is specified in the instrument of appointment, but is eligible for re-appointment.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

(5) A member of an advisory committee may resign from office by writing signed and delivered to the Minister.

(6) The number of members of an advisory committee required to constitute a quorum at a meeting of that advisory committee shall be as determined by the Minister.

(7) If the Minister decides that a member of an advisory committee should be remunerated, that member shall be paid such remuneration as is determined by the Remuneration Tribunal.

(8) A member of an advisory committee shall be paid such allowances as are prescribed.

(9) Sub-sections (7) and (8) have effect subject to the *Remuneration Tribunals Act 1973*.

Non-disclosure of confidential information

32. (1) A person who is, or has at any time been, the Director or a member of the staff or a consultant assisting the Director or is, or has at any time been, authorised to perform or exercise any function or power under an arrangement in force under section 33, shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act or in the performance or exercise of such a function or power—

- (a) make a record of, or divulge or communicate to any person, any information relating to a confidential report or confidential information acquired by the first-mentioned person by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised;
- (b) make use of any such report or information as is mentioned in paragraph (a); or
- (c) produce to any person a confidential report or a document relating to confidential information of another person furnished for the purposes of this Act,

except to the extent that the report or information is the subject of a consent under sub-section 16 (2).

Penalty: \$2,500 or imprisonment for 3 months, or both.

(2) A person who is, or has at any time been, the Director or a member of the staff or a consultant assisting the Director or is, or has at any time been, authorised to perform or exercise any function or power under an arrangement in force under section 33, shall not be required—

- (a) to divulge or communicate to a court any information relating to a confidential report or confidential information acquired by the first-mentioned person by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised; or

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

- (b) to produce in a court a confidential report or a document relating to confidential information of which the first-mentioned person has custody, or to which that person has access, by reason of that person's office, employment or engagement under or for the purposes of this Act or by reason of that person being or having been so authorised,

except to the extent that the report or information was the subject of a consent under sub-section 16 (2) or where it is necessary to do so for the purposes of this Act.

- (3) Nothing in this section prohibits a person from—
 - (a) divulging or communicating information, or producing a document, to the Director or an officer of a State, in accordance with an arrangement in force under section 33; or
 - (b) divulging or communicating information, or producing a document, that is required or permitted by an Act to be divulged, communicated or produced, as the case may be.

- (4) In this section—

“confidential information” means information which, at the time when it is supplied by a relevant employer, the relevant employer has specified as being supplied in confidence;

“court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to.

Delegation

33. (1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Director, delegate to—

- (a) a person referred to in sub-section 29 (1); or
- (b) an officer in respect of whom an arrangement is in force under sub-section (4),

all or any of the powers and functions of the Director under this Act other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Director.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Director.

(4) The Minister may make an arrangement with a Minister of a State for and in relation to the exercise of powers, and the performance of functions, of the Director under this Act by an officer of the State.

*Affirmative Action (Equal Employment Opportunity
for Women) No. 91, 1986*

(5) In relation to higher education institutions, the Minister may make an arrangement with a Minister of a State for the Director and an officer of the State to co-operate, to the extent specified in the arrangement, in—

- (a) exchanging information relating to the development and implementation of affirmative action programs; and
- (b) developing guidelines to be issued under paragraph 10 (1) (b).

(6) An arrangement may contain such incidental or supplementary provisions as the Minister and the Minister of the State think necessary.

(7) The Minister may arrange with the Minister of a State with whom an arrangement is in force for the variation or revocation of the arrangement.

(8) An arrangement, or the variation or revocation of an arrangement, shall be in writing and a copy of each instrument by which an arrangement has been made, varied or revoked shall be published in the *Gazette*.

Regulations

34. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[*Minister's second reading speech made in—
House of Representatives on 19 February 1986
Senate on 17 April 1986*]