

# Racial Discrimination Act 1975

## Selected Sections:

9. Racial discrimination to be unlawful
  10. Rights to equality before the law
  11. Access to places and facilities
  12. Land, housing and other accommodation
  13. Provision of goods and services
  15. Employment
  20. Functions of Commission
- (c) the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour, descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life;

## Section 9

### Racial discrimination to be unlawful

9. (1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

(1A) Where:

- (a) a person requires another person to comply with a term, condition or requirement which is not reasonable having regard to the circumstances of the case; and
- (b) the other person does not or cannot comply with the term, condition or requirement; and

the act of requiring such compliance is to be treated, for the purposes of this Part, as an act involving a distinction based on, or an act done by reason of, the other person's race, colour, descent or national or ethnic origin.

(2) A reference in this section to a human right or fundamental freedom in the political, economic, social, cultural or any other field of public life includes any right of a kind referred to in Article 5 of the Convention.

(3) This section does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

(4) The succeeding provisions of this Part do not limit the generality of this section.

## Section 10

### Rights to equality before the law

10. (1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of

another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.

(2) A reference in subsection (1) to a right includes a reference to a right of a kind referred to in Article 5 of the Convention.

(3) Where a law contains a provision that:

- (a) authorizes property owned by an Aboriginal or a Torres Strait Islander to be managed by another person without the consent of the Aboriginal or Torres Strait Islander; or
- (b) prevents or restricts an Aboriginal or a Torres Strait Islander from terminating the management by another person of property owned by the Aboriginal or Torres Strait Islander;

not being a provision that applies to persons generally without regard to their race, colour or national or ethnic origin, that provision shall be deemed to be a provision in relation to which subsection (1) applies and a reference in that subsection to a right includes a reference to a right of a person to manage property owned by the person.

## **Section 11**

### **Access to places and facilities**

11. It is unlawful for a person:

- (a) to refuse to allow another person access to or use of any place or vehicle that members of the public are, or a section of the public is, entitled or allowed to enter or use, or to refuse to allow another person access to or use of any such place or vehicle except on less favourable terms or conditions than those upon or subject to which he

would otherwise allow access to or use of that place or vehicle;

- (b) to refuse to allow another person use of any facilities in any such place or vehicle that are available to members of the public or to a section of the public, or to refuse to allow another person use of any such facilities except on less favourable terms or conditions than those upon or subject to which he would otherwise allow use of those facilities; or
- (c) to require another person to leave or cease to use any such place or vehicle or any such facilities; by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

## **Section 12**

### **Land, housing and other accommodation**

12. (1) It is unlawful for a person, whether as a principal or agent:

- (a) to refuse or fail to dispose of any estate or interest in land, or any residential or business accommodation, to a second person;
- (b) to dispose of such an estate or interest or such accommodation to a second person on less favourable terms and conditions than those which are or would otherwise be offered;
- (c) to treat a second person who is seeking to acquire or has acquired such an estate or interest or such accommodation less favourably than other persons in the same circumstances;
- (d) to refuse to permit a second person to occupy any land or any residential or business accommodation; or

- (e) to terminate any estate or interest in land of a second person or the right of a second person to occupy any land or any residential or business accommodation; by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person, whether as a principal or agent, to impose or seek to impose on another person any term or condition that limits, by reference to race, colour or national or ethnic origin, the persons or class of persons who may be the licensees or invitees of the occupier of any land or residential or business accommodation.

(3) Nothing in this section renders unlawful an act in relation to accommodation in a dwelling-house or flat, being accommodation shared or to be shared, in whole or in part, with the person who did the act or a person on whose behalf the act was done or with a relative of either of those persons.

## **Section 13**

### **Provision of goods and services**

13. It is unlawful for a person who supplies goods or services to the public or to any section of the public:

- (a) to refuse or fail on demand to supply those goods or services to another person; or
- (b) to refuse or fail on demand to supply those goods or services to another person except on less favourable terms or conditions than those upon or subject to which he would otherwise supply those goods or services;

by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

## **Section 15**

### **Employment**

15. (1) It is unlawful for an employer or a person acting or purporting to act on behalf of an employer:

- (a) to refuse or fail to employ a second person on work of any description which is available and for which that second person is qualified;
- (b) to refuse or fail to offer or afford a second person the same terms of employment, conditions of work and opportunities for training and promotion as are made available for other persons having the same qualifications and employed in the same circumstances on work of the same description; or
- (c) to dismiss a second person from his employment;

by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person concerned with procuring employment for other persons or procuring employees for any employer to treat any person seeking employment less favourably than other persons in the same circumstances by reason of the race, colour or national or ethnic origin of the person so seeking employment or of any relative or associate of that person.

(3) It is unlawful for an organization of employers or employees, or a person acting or purporting to act on behalf of such an organization, to prevent, or to seek to prevent, another person from offering for employment or from continuing in employment by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

(4) This section does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

(5) Nothing in this section renders unlawful an act in relation to employment, or an application for employment, in a dwelling-house or flat occupied by the person who did the act or a person on whose behalf the act was done or by a relative of either of those persons.

## **Section 20**

### **Functions of Commission**

20. (1) The following functions are hereby conferred on the Commission:

- (a) to inquire into alleged infringements of Part II or Part IIA, and endeavour by conciliation to effect settlements of the matters alleged to constitute those infringements;
- (b) to promote an understanding and acceptance of, and compliance with, this Act;
- (c) to develop, conduct and foster research and educational programs and other programs for the purpose of:
  - (i) combating racial discrimination and prejudices that lead to racial discrimination;
  - (ii) promoting understanding, tolerance and friendship among racial and ethnic groups; and
  - (iii) propagating the purposes and principles of the Convention;
- (d) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of infringements of Part II

or Part IIA;

- (e) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve racial discrimination issues;
- (f) to inquire into, and make determinations on, matters referred to it by the Minister or the Commissioner.

(2) The Commissioner shall not participate in any inquiry held by the Commission under Division 3 or attend any meeting of the Commission, be present during any deliberation of the Commission, or take part in any decision of the Commission, in connection with such an inquiry.