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.
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.