QIRC and QCAT exemption applications granted and refused

These tables list published decisions on applications made to the QIRC (for work-related applications from 1 March 2017) and QCAT (for all other applications) for exemption from the *Anti-Discrimination Act 1991*, and give brief details of the exemptions granted and the reasons for refusing an application.

Citation	Exemption sought	Granted / Refused	Date of decision
2018			
Re: Brisbane Housing Company Ltd (Greensquare Close) [2018] QCAT 081	Restrict accommodation in residential unit complex to singles — 5 Greensquare Close, Fortitude Valley	**Granted** — exempt, for a period of five years from the date of this Order, from the operation of sections 81, 82, 83, 124 and 127 in respect of premises located at 5 Greensquare Close, Fortitude Valley, relation to: (a) attributes referred to in sections 7(a) sex, 7(b) relationship status, 7(c) pregnancy, 7(d) parental status, (o) family responsibilities, & (p) association with, or relation to, a person identified on the basis of any of the attributes in section 7; (b) attributes referred to in sections 7(f) age, and 7(h) impairment, insofar as person not able to live alone.	14.03.18
Re: Brisbane Housing Company Ltd (Warry Street) [2018] QCAT 073	Restrict accommodation in residential unit complex to singles — 47 Warry Street, Fortitude Valley	**Granted** — exempt, for a period of five years from the date of this Order, from the operation of sections 81, 82, 83, 124 and 127 in respect of premises located at 47 Warry Street, Fortitude Valley, relation to: (a) attributes referred to in sections 7(a) sex, 7(b) relationship status, 7(c) pregnancy, 7(d) parental status, 7(o) family responsibilities, & 7(p) association with, or relation to, a person identified on the basis of any of the attributes in section 7; (b) attributes referred to in sections 7(f) age, and 7(h) impairment, insofar as person not able to live alone.	14.03.18
Re: Brisbane Housing Company Ltd (Bonney Lane) [2018] QCAT 072	Restrict accommodation in residential unit complex to singles — 4 Bonney Lane, Fortitude Valley	**Granted** — exempt, for a period of five years from the date of this Order, from the operation of sections 81, 82, 83, 124 and 127 in respect of premises located at 4 Bonney Lane, Fortitude Valley, relation to: (a) attributes referred to in sections 7(a) sex, 7(b) relationship status, 7(c) pregnancy, 7(d) parental status, 7(o) family responsibilities, & 7(p) association	14.03.18

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		with, or relation to, a person identified on the basis of any of the attributes in section 7; (b) attributes referred to in sections 7(f) age, and 7(h) impairment, insofar as person not able to live alone.	
2017			
Surtie Enterprises Pty Ltd ATF The Surtie Enterprises Unit Trust [2017] QCAT 323	Restrict accommodation and services in a manufactured home park at Park Ridge to people aged 50 years and over.	**Granted** — exempt from the application of sections 7(f), 45, 46, 76, 77 and 81, 82 and 83 of the *Anti-Discrimination Act 1991* (Qld) for the period of five (5) years in respect of its activities in relation to the property known as Greenbank Gardens Village situated at 3651 Mount Lindsay Highway, Park Ridge in the State of Queensland.	19.09.17
CISC Pty Ltd t/as The Construction Training Centre [2017] QCAT 301	To pay an extra 1% superannuation for the company's female employees.	**Refused** 1. It is declared that: a. The proposal by CISC Pty Ltd t/as The Construction Training Centre to pay an additional 1% in superannuation contributions for its female employees would if not rendered lawful by a statutory provision, be direct discrimination in the superannuation area of the *Anti-Discrimination Act 1991* (Qld). b. The proposal is rendered lawful by the operation of section 59 of the *Anti-Discrimination Act 1991* (Qld) because the proposal is permitted under the *Sex Discrimination Act 1984* (Cwlth). 2. Therefore an exemption from the operation of the *Anti-Discrimination Act 1991* (Qld) is not required and the application is dismissed.	01.09.17
Burleigh Town Village Pty Ltd [2017] QCAT 161	Restrict accommodation and services in a manufactured home park at West Burleigh to people aged 50 years and over.	**Granted** – exempt from the operation of sections 45, 46, 76, 77, 82 and 83 in relation to the attribute of age referred to in section 7(f), in respect of activities in relation to the manufactured home park known as Burleigh Town Village, Township Drive, West Burleigh – 20 July 2016 to 19 July 2021.	22.05.17
Gold Coast 2018 Commonwealth Games Corporation [2017] QIRC 038	Provide more opportunities for Aboriginal and Torres Strait Islander people to volunteer in the 2018 Commonwealth Games.	**Granted** – exempt from the operation of sections 14,15, 124 and 127 in relation to the attribute in section 7(g) (race), in respect of actions or omissions which are reasonably necessary for the applicant to advertise for, recruit for, and employ, volunteers for the Gold Coast 2018 Commonwealth Games – 23 March 2017 to 30 June 2018.	05.05.17

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
Mission Australia [2017] QCAT 024	To recruit specifically female or male case workers for homeless program in Cairns, where clientele is 95% Indigenous.	**Granted** – exempt from operation of sections 14, 15, and 127 in relation to attribute in section 7(a) (sex) relating to Mission Australia advertising for, and the employment of case workers for its Douglas House Homeless Program in Cairns. The exemption applies only to acts or omissions reasonably necessary to ensure employment of sufficient male or female case workers to address the objective of providing the program – granted for 3 years.	27.01.17
2016			
North and West Remote Health Limited [2016] QCAT 452	To identify a position, Manager Community and Cultural Relations, to be filled only by an Aboriginal or Torres Strait Islander person.	**Refused** – exemption not necessary because it is a genuine occupation requirement that the position be filled by an Aboriginal or Torres Strait Islander person, and section 25 applies to the position.	23.11.16
Seachange (Land) Pty Ltd & Ors [2016] QCAT 519	To restrict ownership and occupation of homes in a manufactured home park at Arundel to people aged 50 years and over.	**Granted** – exempt from the operation of sections 45, 46, 76, 77, 81, 82 and 83 in relation to the attribute of age referred to in section 7(f), in relation to Seaside Arundel Village located at 299 Napper Road, Arundel, Gold Coast, Queensland – from 23 December 2016 to 22 December 2021.	22.11.16
Palmpoint Pty Ltd [2016] QCAT 419	To restrict ownership and occupation of homes in a manufactured home park to people aged 50 years and over.	**Granted** – exempt from the operation of sections 45, 46, 76, 77, 81, 82 and 83 in relation to the attribute in section 7(f) in respect of its activities in relation to the property known as Bribie Pines Island Village and Island Breeze Resort – 7 April 2016 to 6 April 2021.	08.09.16
Savannah FNQ Developments Pty Ltd [2016] QCAT 141	To restrict ownership and occupation of homes in a manufactured home park to people aged over 55 years.	**Refused** – noise and disruption of young residents not in itself a reason to grant an exemption – no explanation why exemption is now necessary when it has been operating for almost 6 years – there is a non-discriminatory way to achieve the purpose of providing retirement accommodation and that is to bring the village within the *Retirement Villages Act 1999*.	11.04.16
Re: Anglo Coal (Grosvenor Management) Pty Ltd & Ors [2016] QCAT 160	To advertise for and recruit female trainees at entry level in the underground mining industry, 8 per year for 3 years,	**Refused** – exemption not necessary because the proposed act is an act to promote equal opportunity within the meaning of section 105 of the *Anti-Discrimination Act 1991*.	23.02.16

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
	to increase female participation in traditional male roles.		
2015			
Ghostgum Developments Pty Ltd [2015] QCAT 500	To restrict ownership and occupation of homes in a manufacture home park to people aged 50 years and over.	**Refused** – exemption not in the community interest and not necessary – already adequate provision of dwellings suited to older groups in the area - the aim of the development to provide dwellings, lifestyle and environment for older persons at a reasonable cost can be achieved naturally without an exemption, by the type of dwelling, the gated village arrangement, the community facilities and activities, and by targeting marketing if necessary.	23.12.15
United Synergies [2015] QCAT 089	Target Indigenous employees for general employment to address under-representation of Aboriginal and Torres Strait Islander people.	**Granted** – exempt from the operation of sections 14, 15 and 127 in relation to the attribute in section 7(g) – 30 March 2015 to 30 March 2020.	30.03.15
Body Corporate for Village Green (Caloundra) No. 1 CTS 22630 [2015] QCAT 101	Restrict ownership and occupation of homes in Village Green Caloundra to people aged over 55 years.	**Refused** – the Older People Statistics filed with the application do not support a finding that the community benefits from quarantining older people, or people over the age of 55, in their own community away from the general population – no other evidence that exemption would be in the community interest – noise and disruption that young people bring to the Village is not in itself a reason to grant the exemption – circumstances of this application different to Caloundra Gardens and J&D Developments Pty Ltd.	23.02.15
2014			
eHarmony Australia Pty Limited Exemption [2014] QCAT 577	Limit match-making services to people who are not married or in a de facto relationship	**Granted** - exempt from the application of sections 46(1)(a), 46(1)(b), 124 and 127 in relation to the attribute in section 7(b) – November 2014 to 11 November 2019.	12.11.14
Women's Legal Service Inc. [2014] QCAT 315	Advertise for and employ women	**Granted** - exempt from the operation of sections 14, 15, and 127 in relation to the attribute in section 7(a) in respect of the advertising for and employing of persons for positions with the organisation – 1 July 2014 to 30 June 2019.	01.07.14
Boys Town [2014] QCAT 247	Recruit female case workers	**Refused** – exemption not necessary – it is a genuine occupational requirement for the role to be filled only by women – section 25 available as defence – also	16.05.14

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
		protected by section 104 – support services for victims of violence by men is for the benefit of women and is not inconsistent with the *Anti-Discrimination Act*.	
Re James Frizelle's Automotive Group [2014] QCAT 090	Advertise for women employees in sales and service areas	**Refused** – adopt reasons in *Eagers* decision – not necessary – section 105 might apply – promote equal opportunity – made suggestion for advertising in para 23: '[23] …James Frizelle can note in any advertisements that are targeting female staff that **"*The James Frizelle's Automotibe Group considers this advertisement to be an equal opportunity measure under s105 of the Anti-Discrimination Act 1991*"** to indicate the group's intentions to raise this exemption should a complaint be made.' (emphasis added)	13.03.14
National Heart Foundation of Australia [2014] QCAT 39	Engage Senior Aboriginal Advisor for its National Aboriginal Health Unit	**Refused** – exemption not necessary – it is a genuine occupational requirement for the role to be filled only by an Aboriginal or Torres Strait Islander person – section 25 available as defence – targeted employment for the purpose of improving understanding and respect for Aboriginal or Torres Strait Islander people is an equal opportunity measure – exemption exists under section105.	22.01.14
2013			
Isaac Regional Council [2013] QCAT 734	Advertise for and recruit candidates in a co-habiting relationship in preference to candidates who are not in a relationship with a person who is also seeking employment with Council	**Granted** - exempt from the operation of sections 13, 14, 15, 45, 82, 83, 124 and 127 in relation to the attribute in section 7(b) in respect of the recruiting and employment of persons for positions with the Council – 15 October 2013 to 14 October 2016.	15.10.13
ABC Business Australia Pty Ltd [2013] QCAT 719	Provide services to people aged over 50 years	**Refused** – exemption not necessary – nothing to prevent business from advertising it has specialist knowledge relating to the services it offers, and allowing market forces to take effect – applicant has not explained why it needs an exemption in order to conduct its business.	29.11.13
Miami Recreational Facilities Pty Ltd [2013] QCAT 635	Restrict accommodation in Miami Village Residential Complex to persons aged over 50 years	**Granted** – exempt from the operation of sections 45, 46, 76, 77, 81, 82 and 83 in relation to the attribute in section 7(f) in respect of occupation of units at the property known as Miami Village Residential Complex – 22 November 2013 to 21 November 2016.	21.11.13

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
GRS Networking Pty Ltd [2013] QCAT 563	Operate a women only area in a fitness club	**Granted** – exempt from the operation of sections 46 and 127 in relation to: (i) the attribute of sex, referred to in section 7(a) of the Act; (ii) in respect to providing a 'women's only' training area within its fitness centre in Cairns, Queensland; (iii) from 16 October 2013 until 15 October 2018.	16.10.13
Downer EDI Mining Pty Ltd (No. 2) [2013] QCAT 532	Recruit 10 female operators at entry level in each of five open cut mining sites in Queensland each year. The aim of the initiative is to break stereotypes around gender and occupation.	**Granted** – exempt from the operation of sections 13, 14, 15 and 127 in relation to the attribute in section 7(a) for 5 years – 18.10.13 to 17.10.18 – in respect of the recruiting and employment of persons at its open-cut sites at Goonyella, Blackwater, Daunia, Meandu and Commodore.	18.10.13
TJ & RC Walsh Pty Ltd v Anti-Discrimination Commission Queensland [2013] QCAT 418	Restrict accommodation in manufactured home village Durack Gardens Home Park at Caloundra to people over the age of 50 years	**Granted** – this type of affordable housing is particularly attractive to seniors – would be incongruous if one segment of the accommodation market designed to appeal to seniors is permitted (*Retirement Villages Act*) while another segment is not.	01.08.13
Downer EDI Mining [2013] QCAT 99	Designate, advertise and recruit Indigenous people for trainee positions in 6 mine sites in Queensland	**Refused** – exemption not necessary – company filling and exceeding its targets of Indigenous employees – also section 105 might apply – promote equal opportunity. Note: Leave to appeal this decision was sought but not granted and the application dismissed. See *Downer EDI Mining* [2013] QCATA 276 (15 October 2013).	27.02.13
TJ & RC Walsh Pty Ltd atf the Trevor Walsh Family Trust No 2 [2013] QCAT 25	Restrict accommodation in manufactured home village Little Mountain Home Park at Caloundra to people over the age of 50 years	**Granted** – exempt from the operation of sections 7(f), 45, 46, 76, 77 and 81, 82 and 83, for 5 years – 21 January 2013 to 21 January 2018.	21.01.13
2012			

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
Re AP Eagers Limited [2012] QCAT 567	Advertise for women employees in sales and service area	**Refused** – not necessary – s105 might apply – promote equal opportunity – made suggestion for advertising in para 17: '[17] It may be of assistance in this regard to note in any advertisements that are targeting female staff that ***"Eagers considers this advertisement to be an equal opportunity measure under s105 of the Anti-Discrimination Act 1991"*** to indicate the Company's intentions to raise this exemption should a complaint be made.' (emphasis added)	26.10.12
Re Brisbane Housing Company Ltd (No 3) [2012] QCAT 529	Restrict accommodation in residential unit complex at 4 Bonney Lane, Fortitude Valley to singles	**Granted** – exempt from application of sections 81, 82, 83, 124 and 127 in relation to attributes in sections 7(a), (b), (c), (d), (o) & (p), as well as (f) and (h) insofar as person not able to live alone, for 5 years – 16 October 2012 to 16 October 2017.	16.10.12
Re Brisbane Housing Company Ltd (No 2) [2012] QCAT 507	Restrict accommodation in residential unit at 5 Green Square, Fortitude Valley complex to singles	**Granted** – exempt from application of sections 81, 82, 83, 124 and 127 in relation to attributes in sections 7(a), (b), (c), (d), (o) & (p), as well as (f) and (h) insofar as person not able to live alone, for 5 years – 21 September 2012 to 21 September 2017.	21.09.12
Re Brisbane Housing Company Ltd (No 1) [2012] QCAT 506	Restrict accommodation in residential unit at 47 Warry Street, Fortitude Valley complex to singles	**Granted** – exempt from application of sections 81, 82, 83, 124 and 127 in relation to attributes in sections 7(a), (b), (c), (d), (o) & (p), as well as (f) and (h) insofar as person not able to live alone, for 5 years – 21 September 2012 to 21 September 2017.	21.09.12
Re Surtie Enterprises Pty Ltd ATF the Surtie Enterprises Unit Trust [2012] QCAT 369	Restrict accommodation in manufactured home village Greenbank Gardens Village at Park Ridge to people over the age of 50 years	**Granted** – exempt from application of sections 7(f), 45, 46, 76, 77, 81, 82, & 83 for 5 years – 14 August 2012 to 13 August 2017.	14.08.12
Re The Youth and Family Service (Logan City) Inc [2012] QCAT 315	Advertise for and employ specifically male or female caseworkers for its domestic violence team, providing counselling and programs for perpetrators of domestic violence	**Granted** – exempt from operation of sections 14, 15 & 127 in relation to the attribute in section 7(a) until 31 December 2014. Only applies to acts or omissions reasonably necessary to ensure employment of sufficient gender specific workers to address the objectives of the domestic violence counselling and support programs.	29.07.12

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Citation	Exemption sought	Granted / Refused	Date of decision
JN & RA Cooper Pty Ltd [2012] QCAT 178	Restrict accommodation in the manufacture home village Palm Meadow Village at Willowbank to people over 50 years of age	**Granted** – exempt from application of sections 7(f), 45, 46, 76, 77, 81, 82 & 83 for 5 years – 30 March 2012 to 29 March 2017.	30.03.12
Re Mission Australia [2012] QCAT 124	Advertise for and employ only women at a women's refuge on Mornington Island	**Refused** – section 25 exemption reasonably open to applicant – made suggestion for advertising in para 32 that Mission Australia: '[32] … may wish to consider, when advertising for the stated positions, inserting into the advertisement something to the following effect, for example, ***Mission Australia considers being a female is a genuine occupational requirement for the position as envisaged under section 25 of the Anti-Discrimination Act 1991*** to foreshadow that should a complaint arise in the future in relation to the positions it would raise this exemption in its response.' (emphasis added)	21.03.12
Re Caloundra Gardens Village Body Corporate Committee [2012] QCAT 98	Limit residential accommodation in Caloundra Gardens Village to persons over 50 years of age	**Granted** – exempt from the application of sections 7(f), 45, 46, 76, 77, 81, 82 & 83 for 5 years – 23 March 2012 to 22 March 2017. Condition – current residents exempt from requirement to be over 50 years of age for the duration of their lives.	23.03.12
Re Credit Suisse Management (Australia) Pty Limited [2012] QCAT 95	Offer investment banking scholarship for female university students in penultimate year of study	**Refused** – section 105 (equal opportunity measures) is reasonably open to applicant to argue should a complaint arise.	06.03.12
Re Australian Municipal, Administrative, Clerical and Services Union [2012] QCAT 40	Confer greater redundancy entitlements for workers over the age of 50 years (renewal of expired exemption)	**Granted** – AMACSU exempt from application of section 20(1)(d) in relation to attribute in section 7(f) (age) in respect of redundancy entitlements and severance payments payable to employees of TattsBet Limited – TattsBet Limited exempt from application of sections 15(1)(a), (b) and (f) in relation to attribute in section 7(f) (age) in respect of redundancy entitlements and severance payments to employees for 5 years.	27.01.12
2011			

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
Urban Land Development Authority & Maranoa Regional Council [2011] QCAT 647	Provide affordable housing for low to middle income households in the Maranoa Council region	**Granted** – exempt from operation of sections 9, 14, 15, 45, 46, 76, 77, 81, 83, 102, 124 & 127 in relation to attribute in section 7(b) (relationship status) in respect of providing affordable housing for people working and living in the area – granted for 5 years.	03.08.11
Burleigh Town Village Pty Ltd Rental Management Services Pty Ltd [2011] QCAT 646	Restrict accommodation in manufactured home village 'Burleigh Town Village' at West Burleigh to people over the age of 50 years	**Granted** – exempt from the operation of sections 7(f), 45, 46, 76, 77 and 81, 82 and 83, for 5 years – 20 July 2011 2013 to 19 July 2016.	19.07.11
Re The Women's Community Aid Association (Qld) Limited [2011] QCAT 593	Restrict services offered by Brisbane Rape and Incest Survivors Support Centre and Women's House Shelta to women and children; and prohibit men from the premises; and limit staff to women	**Refused** – exemption under section 113 not necessary because a valid defence and specific exemption apply - genuine occupational requirement for workers and volunteer at WCAA to be women, and section 25 available as a defence to complaints of sex discrimination in work – providing counselling, support services and a safe environment for women who have experienced violence from men is a welfare measure under section 104.	18.11.11
Mission Australia [2011] QCAT 489	Recruit female case workers for homeless program where over 90% of recipients of services ATSI	**Granted** – exempt from operation of sections 14, 15 and 127 in relation to attribute in section 7(a) (sex) in respect of activities of providing female case workers for the Going Places homeless program in Cairns – granted for 3 years.	11.10.11
Pink Army Handywomen [2011] QCAT 395	Recruit only females for business providing handyperson services directed to vulnerable women	**Granted** – exempt from operation of sections 14, 15 and 127 in relation to attribute in section 7(a) (sex) in respect of activities of providing a handyperson service to vulnerable women – granted for 2 years.	10.08.11
Kings International College [2011] QCAT 231	Deliver a male only course in Certificate III in Children's Services	**Refused** – no evidence that offering male only courses will tend to correct any practice that has excluded, caused disadvantage or restricted the opportunity of males to obtain places in children education or obtain employment in the childcare industry. No evidence that it is reasonable and appropriate to preclude females from a more attractive childcare course for men.	30.05.11

QIRC and QCAT exemption applications granted and refused

Citation	Exemption sought	Granted / Refused	Date of decision
Palmpoint Pty Limited [2011] QCAT 140	Operate a manufactured home park at Bribie Pines Island Village & Island Breeze Resort, Bribie Island for people over 50 years of age	**Granted** – exempt from operations of sections 45, 46, 76, 77, 81, 82 & 83 in relation to the attribute in section 7(f) (age) in respect of its activities in relation to the property known as Bribie Pines Island Village and Island Breeze Resort – granted for 5 years.	06.04.11
Central Queensland University [2011] QCAT 132	Recruit an Aboriginal or a Torres Strait Islander person for the position of Indigenous Recruitment and Retention Officer	**Refused** – insufficient information accompanying the application. If it is a genuine occupational requirement for the position that the person be Aboriginal or Torres Strait Islander, the discrimination would be lawful and an exemption not necessary.	06.04.11
2010			
J & D Richards Developments Pty Limited (unreported)	Operate a manufactured home park at Little Mountain Home Park, Caloundra for people over 50 years of age	**Granted** – exempt from the application of sections 7(f), 45, 46, 76, 77 and 81, 82 and 83 for the period from 28 July 2010 to 27 July 2015.	25.08.10
Queensland South Native Title Services Ltd [2010] QCAT 413	Advertise and fill all positions in the Community Relations team with Aboriginal or Torres Strait Islander persons	**Refused** – If it is a genuine occupational requirement that the position of Community Relations team member be an Aboriginal or Torres Strait Islander person, the exemption is not necessary. If it was not a genuine occupation requirement, there is insufficient information in the application to say whether the exemption is appropriate and reasonable or in the community interest.	25.08.10