

**PROTECTED SENSITIVE: CABINET**  
**JobMaker Hiring Credit – Budget lock-up Q&A**

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- 2. Is this age discrimination? Why is this just available to young people? Why was 16-35 chosen?**
- Large numbers of young people have become unemployed as a result of the COVID-19 pandemic.
    - Compared to March 2020, youth employment (aged 15 to 34 years) has fallen by 360,000 (or 7.1 per cent) as at August 2020. While this cohort represents around 40 per cent of those that are employed, it accounts for around three quarters of the total fall in employment over this period.
    - At August 2020, the youth unemployment rate stood at 9.8 per cent for those aged 15 to 34 years and 14.3 per cent for those aged 15 to 24 years, compared to 6.8 per cent for the whole population.
  - In addition to the significant number of young people who have lost employment this year, there are large numbers of young people entering the labour force each year who will struggle

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to access employment in the current climate. Job ads for graduate positions and internships have fallen 36 per cent in the year-to-August 2020.

- Expanding employment will reduce the ‘scarring effects’ of an extended period of unemployment for people that have lost employment. There are direct impacts for the individual through long-term reductions in earnings and employment outcomes as well as negative health and social impacts. There are broader economic losses in terms of human capital, lower levels of income, consumption and productivity.
- Treasury analysis in the ‘Career effects of labour market conditions at entry’ working paper released in June 2020 shows that Australians graduating into a labour market with high youth unemployment can expect to earn roughly 8 per cent less in their first year of work, and 3.5 per cent less after five years.
  - Over a decade this equates to the loss of roughly half a years’ salary compared to those graduating into more benign conditions.
  - And in dollar terms this is also sizeable – for someone on the 2019 median graduate salary of \$62,600 this would translate to \$5,000 less earnings in their first year of work and over \$30,000 less over their first decade.

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**From:** s22  
**Sent:** Monday, 14 September 2020 10:47 AM  
**To:** s22  
**Subject:** [SEC=UNOFFICIAL]

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## *Age Discrimination Act 2004*

### **33 Positive discrimination**

This Part does not make it unlawful for a person to discriminate against another person, on the ground of the other person's age, by an act that is consistent with the purposes of this Act, if:

- (a) the act provides a bona fide benefit to persons of a particular age; or

Example 1: This paragraph would cover a hairdresser giving a discount to a person holding a Seniors Card or a similar card, because giving the discount is an act that provides a bona fide benefit to older persons.

Example 2: This paragraph would cover the provision to a particular age group of a scholarship program, competition or similar opportunity to win a prize or benefit.

- (b) the act is intended to meet a need that arises out of the age of persons of a particular age; or

Example: Young people often have a greater need for welfare services (including information, support and referral) than other people. This paragraph would therefore cover the provision of welfare services to young homeless people, because such services are intended to meet a need arising out of the age of such people.

- (c) the act is intended to reduce a disadvantage experienced by people of a particular age.

Example: Older people are often more disadvantaged by retrenchment than are other people. This paragraph would therefore cover the provision of additional notice entitlements for older workers, because such entitlements are intended to reduce a disadvantage experienced by older people.

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Is there an incentive to lay off an older worker and hire several new ones?

Previous Employee	New Employees	Position of Employer	Explanation
\$75,000	\$22,500 x 3	+\$7,500	Receives no hiring credit. Payroll has decreased.
	\$25,000 x 3	\$0	Receives no hiring credit. Payroll has not increased.
	\$27,500 x 3	<del>\$0-\$2,500</del>	Payroll increases to \$82,500 minus <del>\$5,075</del> 00 in hiring credit Headcount increased by 2.
	\$30,000 x 3	<del>\$0-\$5,000</del>	Payroll increases to \$90,000 minus <del>\$105</del> 00 in hiring credit Headcount increased by 2
	\$40,000 x 3	-\$24,200	Payroll increases to \$120,000 minus \$20,800 in hiring credit Headcount increased by 2

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Assumes one full-time employee is replaced by three part-time employees working 20 hours.

Key points

- The Hiring Credit does not create an incentive for an employer to replace an older worker with several new part time workers.
- If the employer were to do this, they would only receive the hiring credit with respect of 2 of the 3 new employees; and only to the extent to which their payroll increases or the maximum credit (whichever is lower).
- The only situation in which the employer is better off, is one which is unaffected by the availability of the Hiring Credit.

Explanation

- The arrangements for claiming the Hiring Credit will require an employer to demonstrate both an increase in payroll and an increase in headcount.
- The amount of Hiring Credit payable is limited to the increase in payroll or the amount of the credit, whichever is lower.
- The employer will not be able to claim for the first employee as they will also be below the required baseline employee headcount.
- There are often costs to the employer in separating with ongoing employees which an employer will bear without any assistance from the hiring credit-will not benefit from.
- The hiring credit will only partially cover the wages of new employees.

Issues register as at 7 September 2020

	Issue	Description	Proposal
1.	s22		
2.			

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**10. Age Discrimination**

Generally, age discrimination in employment including in recruitment processes is prohibited under the Age Discrimination Act 2004 (the Act).

However, there are a number of situations where discrimination against someone on the basis of age in employment or in the provision of services is not against the law under the Act.

We will need to confirm whether the hiring credit can operate under one of the exemptions in the Act or if a specific exemption will be required.

- The Act has exemptions for existing Commonwealth employment programs
- The Act also has a general exemption for positive discrimination to meet a need that arises out of the age of persons of a particular age or to reduce a disadvantage experienced by people of a particular age.

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