

Respect at Work and Other Matters Amendment Bill 2024

Submission No: 15
Submitted by: Multicultural Australia
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

Head Office

Brisbane Multicultural Centre
28 Dibley Street
Woolloongabba QLD 4102
07 3337 5400
07 3337 5444 (fax)

welcome@multiculturalaustralia.org.au
www.multiculturalaustralia.org.au

1 July 2024

Community Safety and Legal Affairs Committee
Online portal submission

Dear Committee Chair

Re: Respect at Work and Other Matters Amendment Bill 2024

Multicultural Australia welcomes the opportunity to provide this submission to the Community Safety and Legal Affairs Committee's inquiry into the *Respect at Work and Other Matters Amendment Bill 2024* (the Bill).

The Bill is proposed as part of a staged legislative reform process, with the Government indicating commitment to implementing the recommendations made in the *Building Belonging* Report (with a second stage of reforms to occur following further consultation).

Multicultural Australia notes the significant community consultation to date that has informed discussions on updating anti-discrimination legislation for Queensland – including, through the Queensland Human Rights Commission and consultations on a draft *Anti-Discrimination Bill 2024* (Qld).

We note the urgent impetus and imperative provided by the Respect@Work report and emphasise the immediate need for a holistic rework of our current anti-discrimination legislation to ensure it is contemporary and fit for purpose. While we support progressing the amendments included in the Bill, we note that significant recommendations from the *Building Belonging* report are not being progressed as part of this Bill.

Multicultural Australia welcomes the Bill's intent to eliminate discrimination, sexual harassment, vilification and victimization from our workplaces. We welcome:

- New prohibitions of harassment on the basis of sex.
- Prohibition on subjecting another person to a work environment that is hostile on the ground of sex.
- A positive duty on all employers to take reasonable and proportionate measures to eliminate discrimination, sexual harassment and other conduct that is unlawful under the *Anti-Discrimination Act 1991*.

We also note and welcome:

- The expanded and modernized protected attributes – including, new attributes (homelessness, subjection to domestic or family violence, irrelevant criminal record, irrelevant medical record) and updated attributes (including, updating family responsibilities to family, carer or kinship responsibilities, definition of race to include immigration or migration status and caste, and the term 'sexual orientation' instead of sexuality).
- Expanded protections against vilification (extending attributes protected from vilification) and including incitement and harm-based test for vilification.
- Expanded functions for the Queensland Human Rights Commission, including – issuing guidelines on compliance with positive duty, representative complaints and investigative mechanisms under the *Anti-Discrimination Act 1991* (Qld).

While welcoming the proposed reforms, Multicultural Australia notes our concern about the scope and pace of reforms proposed. Multicultural Australia engaged with the review and consultation

processes around the *AD Act* 1991, to highlight the experiences of diverse, multicultural community members in Queensland. We noted the many forms of discrimination experienced by individuals and communities – often linked to attitudes, biases and stigma. For communities, this discrimination can be overt or subtle – and can occur between individuals or at structural, institutional levels. We noted that people from refugee and migrant backgrounds are affected by interactions of systems, practices and programs that may perpetuate disadvantage and inequality. Individual experiences of discrimination can be varying – based upon the intersection of factors like age, gender, race, religion, sexual orientation – even language skills and professional qualifications. These intersections influence people’s ability to participate in the economic, social, cultural and political life in the community, and also shapes perceptions of others towards them, including perpetuating harmful stereotyping and racism.

Multicultural Australia notes that the Bill does not make the necessary accommodations to ensure the realisation of its intent (to eliminate discrimination, sexual harassment, vilification and victimization from the workplace). We particularly note concerns that the Bill does not update and modernize the Act’s definitions and legal tests in line with the expanded attributes for protection.

Multicultural Australia also notes that the processes for complaints are made less clear by the introduction of different time limits. The Bill proposes a general time limit of two years for making a complaint if the contravention relates to a sex-based work-related matter (while retaining a one-year time limit for others, unless that time limit is extended). For some women, complaints about discrimination in the workplace may encompass multiple attributes – gender, migration status, disability etc. (within the same complaints process). While the Bill recognizes the often-difficult reasons that may delay women progressing sexual harassment complaints, it needs to recognize that these reasons may extend to other attributes as well. Therefore, the two-year time limit needs to be extended to other attributes as well.

Multicultural Australia is concerned that the current Bill and measures miss an important opportunity to update anti-discrimination provisions for our times and current community needs. We particularly note:

- that the Bill does not provide a holistic reworking of Queensland’s anti-discrimination law as recommended in the *Building Belonging* report.
- the Bill does not recognize the experiences of discrimination based on combined grounds that can have cumulative and compounding impacts.
- concerns shared by Equality Australia, that the Bill may lead to greater uncertainty, with focus on sex-based protections over and above other attributes, in a way that is less intersectional.

The *Building Belonging* Report noted that the existing definitions of direct and indirect discrimination are difficult to apply and cause confusion. Amendments to the definition of discrimination are required to ensure the elimination of sex discrimination.

We support suggestions in other submissions for interim improvements to the Bill, by changing the definition of discrimination from requiring less favourable treatment to requiring unfavourable treatment (the test for direct discrimination redefined as a test of ‘unfavourable treatment’, with the requirement that discrimination was ‘one of the reasons’ for the treatment. In relation to indirect discrimination, the test be redefined as a test of ‘disadvantage’.

The above concerns are particularly relevant for diverse multicultural communities. Their understanding of how discrimination is felt and experienced includes instances where people have felt excluded, unfavourably treated or restricted/stopped from receiving a right or freedom available to others. Ability to prove discrimination on one ground or attribute is difficult – however,

communities experience discrimination based on combined grounds. Further, the current dispute resolution process is overly intimidating, formal and complex and there is genuine fear and apprehension in lodging complaints. Uncertainty around availability of supports to assist in this process, makes it harder.

For the *Respect at Work* legislation to be available, applicable and meaningful for all community members, it is important that we understand the varying experiences of sexual harassment in the workplace. Migrant and refugee women particularly, face compounding forms of discrimination. For them, race, religion, ability, gender identity as well as sex, all intersect – and these forms cannot be separated.

In our submissions to the Review of Queensland's *Anti-Discrimination Act 1991* (by the Queensland Human Rights Commission), and the *Anti-Discrimination Bill 2024*, Multicultural Australia noted our support for a broad-based Anti-Discrimination regime that is accessible and available to those seeking justice against acts of discrimination – while actively working to promote and secure substantive equality for all Queenslanders to the greatest extent possible. The experiences of many migrant and refugee women in the workplace are a clear reason why we need to urgently progress this. In the absence of substantive equality in community, many women are in insecure workplaces or unsafe conditions of work and enduring prevailing community attitudes that stereotype them or use race or religion as motivations for sexual harassment. In such an environment we cannot achieve true Respect at Work for all Queenslanders.

Any legislative reform also requires the necessary scaffolding and community support for success. Here Multicultural Australia notes the amendments to the powers and functions of the QHRC to ensure the Commission's educational programs support compliance with the Act (including, educational programs and guidelines that may provide guidance to duty holders in relation to compliance with the new positive duty).

We note a strong community need to ensure the intent and purpose of the legislation is better understood – noting the Building Belonging Report finding that awareness about Queensland's discrimination law is not separate from, but intimately connected with, broader public awareness about discrimination in all its forms.

While Multicultural Australia welcomes the current Bill and its provisions, we retain the hope that the comprehensive recommendations proposed by the Queensland Human Rights Commission's *Building Belonging* Report are progressed, to bring the required fundamental shift to our discrimination legislation, updating it for our times and the needs of our community.

I would be pleased to assist with any further information towards this submission.

Yours sincerely

Christine Castley

CEO, Multicultural Australia