

Respect at Work and Other Matters Amendment Bill 2024

Submission No: 22
Submitted by: ADA Australia
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

2 July 2024

Community Safety and Legal Affairs Committee
Parliament House
George Street
Brisbane QLD 4000

By email: CSLAC@parliament.qld.gov.au

Dear Committee

Respect at Work and Other Matters Amendment Bill 2024

Thank you for the opportunity to provide feedback on the Respect at Work and Other Matters Amedments Bill 2024 (the **Bill**). Aged and Disability Advocacy Australia (**ADA**) appreciates being the opportunity to provide feedback on the proposed reforms.

About ADA Australia

ADA is a not for profit, independent, community-based advocacy and education service with more than 30 years' experience in informing, supporting, representing and advocating in the interests of older people, and persons with disability in Queensland.

ADA also provides legal advocacy through ADA Law, a community legal centre and a division of ADA. ADA Law provides specialized legal advice to older people and people with disability, including those living with cognitive impairments or questioned capacity, on issues associated with human rights, elder abuse, and health and disability legal issues related to decision-making.

ADA advocates and legal practitioners work with identified First Peoples advocates through the Aboriginal and Torres Strait Islander Disability Network Queensland (**ATSIDNQ**), a network established to support mob with disability and provide individual advocacy services for Aboriginal and Torres Strait Islander people with disability.

We provide the following feedback for the Committee's consideration.

Proposed amendments to the Anti-Discrimination Act 1991

We note the Attorney-General's comments that the proposed amendments to the *Anti-Discrimination Act 1991* (the **Act**) represents "*the first stage in the staged reform to Queensland's anti-discrimination laws.*"¹

¹ Hon. YM D'Ath, Record of Proceedings, First Session of the Fifty-Seventh Parliament Queensland, Explanatory Speech introducing the Bill (14 June 2024), 2364 <chrome-



It is unfortunate that the opportunity to introduce a new Act has not been taken up at this time. ADA strongly encourages the government to introduce legislation to implement the full suite of anti-discrimination and equality laws as recommended by the Queensland Human Rights Commission's *Building Belonging* report.

Amendments to the Preamble, purpose of the Act, and prohibited attributes

ADA supports the insertion of the wording into the Preamble and section 6 of the Act relating to 'equitable outcomes'.

We endorse the proposed amendments at clause 7 that expand the prohibited attributes.

Limited new protections

ADA supports the introduction of provisions under a new Chapter 4, Part 5 of the Act that recognise and require active steps to be taken in a '*work environment that is hostile*'. However, the proposal limits this recognition and obligation to rectify the issue only to scenarios where hostility is on the basis of sex.

The omission of other attributes that may be relevant to workplace harassment or hostile working environments, such as race, disability, and age, has the effect of perpetuating discrimination against persons who experience hostile environments or workplace harassment in relation to exhibiting one or more of these attributes.

We strongly recommend the amendment of Chapter 4, Part 5 to include other relevant attributes, such as those described above. Doing so will add protection for persons with these attributes in a similar way as the Bill intends to provide to those experiencing harmful workplace behaviours on the basis of their sex.

Introduction of a positive duty – Introduction of Chapter 5C

ADA welcomes the introduction of a positive duty to implement the purpose of the Act, including by the implementation of steps to eliminate discrimination, sexual harassment, and harassment on the basis of sex and certain other 'objectionable conduct'. The obligation to take 'positive action' is welcome and expected to play an important role in reframing the public and private sectors approach to tackling discrimination and harassment.

We note that clause 29 of the Bill proposes differing time limits for making a complaint, depending upon the attribute that the complainant experienced discrimination or other contravention of the Act – allowing two years where the work-related matter is on the basis of sex, and one year in all other circumstances. We repeat the concerns expressed by the Queensland Human Rights Commission that provisions such as this may have the unintended consequence of offering better protection to some groups, over other persons who may experience discrimination and harassment at similar or higher rates. We note particularly the rampant discrimination of persons with disability and older persons in working environments.

extension://efaidnbmnnnibpcjpcglclefindmkaj/https://documents.parliament.qld.gov.au/events/han/2024/2024_06_14_WEEKLY.pdf>.

QCAT and IRC – right of legal representation

ADA supports clear complaints mechanisms, investigation and referral powers, and the ability to pursue recourse via hearings and proceedings before the Industrial Relations Commission and the Queensland Civil and Administrative Tribunal.

We strongly recommend that the Bill is amended to ensure that persons making a complaint before these bodies have a legislative right to legal representation in respect of relevant proceedings. This is particularly important to address the evident imbalance of power for a person seeking redress against an employer, and having regard to the additional challenges that a person with one or more of the identified attributes may face when navigating these complex legal environments. For example, a person with disability who is also subject to a guardianship appointment may encounter additional obstacles in commencing and pursuing a complaint, and being provided the opportunity to actively participate in any resulting proceedings.

Implementing recommendations of the Building Belonging report

ADA supports the Bill's intention to eliminate discrimination, harassment, and unacceptable behaviours in work environments. We are disappointed that the Bill does not seek to equally improve the Act by introduction of the full course of recommendations set out in the Building Belonging report. We hope that the next stage of reforms will be introduced urgently to address this.

Thank you again for the opportunity to comment. ADA would be pleased to further assist the Committee with its inquiry. Should you wish to discuss this submission, please do not hesitate to contact Vanessa Krulin, Solicitor and Senior Policy and Research Officer on [REDACTED] or via [REDACTED].

Yours faithfully

[REDACTED]

Geoff Rowe

Chief Executive Officer