

Submission  
Queensland Industrial Relations Bill  
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People with disability\* have suffered much discrimination within the workforce, they are more likely to be unemployed (9.4%), underdeployed and in more precarious positions (see analysis of HILDA data in Werth 2013). People with disability are also less likely to achieve a university qualification (15%) compared with people without disability (26%) (Australian Bureau of Statistics 2012).

The systemic disadvantage for people with disability, who are able to work at a variety of levels of employment, needs to be addressed. In recent years we have seen a number of inquiries and reports focusing on retention strategies for employees with disability. These include: the Australian Human Rights Commission (AHRC) Willing to Work Report (2016) and the Department of Social Services Disability Employment Framework (2015). People with disability who have the skills and ability to work are keen to be employed, but once employed need to be protected from any disadvantage or discrimination due to negative perceptions associated with their disability.

The *Disability Discrimination Act 1992* (Cwlth) provides some workplace specific protections in relation to discrimination in employment. This legislation has limitations in its usefulness for individuals with disability who are seeking assistance with the enforcement of their workplace rights. These employees are able to make a complaint through the AHRC complaints process in order to gain access to conciliation. Any complaints that are not able to be settled by conciliation may proceed to the Federal Court. This places employees with disability at a considerable disadvantage because they might be liable for, not only their own legal costs, but those of the defendant. To require that workers with disability undertake this process instead of including relevant protections within the Queensland industrial relations legislation, compounds their disadvantage while providing insufficient protection from the difficulties of working with a disability.

In its current form the Queensland Industrial Relations Bill does not provide sufficient protection for the increasing number of employees in this jurisdiction who have a disability. Workers outside this jurisdiction have protections provided by the *Fair Work Act 2009* (Cwlth), specifically section 351 which states that:

An employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the **person's... physical or mental disability...**

Additionally section 352 states that:

An employer must not dismiss an employee because the employee is temporarily absent from work because of illness or injury of a kind prescribed by the regulations.

This is the wording that needs to be included in the Queensland Industrial Relations Bill to provide workers with disability in the Queensland jurisdiction the same protections provided by the *Fair Work Act 2009* (Cwlth).

\*The term disability is used here to include people with physical, mental or learning disabilities, as well as those with long-term medical conditions.

## References

Australian Bureau of Statistics 2012, *4430.0 Disability, Ageing and Carers, Australia: Summary of Findings, 2012*, Australian Government.

Australian Government, *National disability employment framework - issues paper*, 2015, Department of Social Services.

Australian Human Rights Commission 2016, *Willing to Work: National inquiry into employment discrimination against older Australians and Australians with disability*, Sydney.

Werth, S 2013, 'An investigation of the interaction of chronically ill women and their working environments', Griffith University.