



Speech By
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ANTI-DISCRIMINATION (RIGHT TO USE GENDER-SPECIFIC LANGUAGE) AMENDMENT BILL

 **Mr JANETZKI** (Toowoomba South—LNP) (5.46 pm): I rise to contribute to the debate on the Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Bill 2018. The bill was introduced on 19 September 2018 by Katter's Australian Party. The policy objectives of the bill are to protect an individual's right to use traditional gender based language and to protect businesses and other organisations that offer facilities and services that exclusively recognise gender as either male or female. The bill seeks to achieve this by making amendments to the Anti-Discrimination Act 1991 to add new grounds and types of unlawful discrimination.

The reasoning behind the need for the bill relates to the stated increase in intolerance and hostility because of the direct and implied limitations on the use of traditional gender based language. It is argued that limitations on the use of traditional gender based language have taken the form of explicit and implied prohibitions, punishments and disadvantage against individuals and organisations. It is further argued that the increasing prevalence of those limitations requires a legislative response to protect the right to use language that reflects the values of a majority of Queenslanders.

The provisions in the bill create a new class of prohibited discrimination, that is, discrimination on the basis of the use of gender-specific language. The bill states—

Gender-specific language means words, symbols or images that directly or indirectly designate, or are associated with, the male or female gender.

It includes language such as male, female, man, woman, he, she, mister, missus, Ms, husband, wife, widow, widower—and the list goes on. The Legal Affairs and Community Safety Committee recommended that the bill not be passed. Clause 4 would amend the meaning of 'direct discrimination' in section 10 of the Anti-Discrimination Act. The bill states—

Direct discrimination on the basis of the use of gender-specific language happens if a person treats, or proposes to treat, a person who uses the language less favourably than another person, who does not use the language, is or would be treated in circumstances that are the same or not materially different.

Clause 5 would amend the meaning of 'indirect discrimination' in section 11 of the Anti-Discrimination Act. The bill states—

Indirect discrimination on the basis of the use of gender-specific language happens if a person directly or indirectly imposes, or proposes to impose, a term or standard, whether written or unwritten, that a person will not comply with if the person uses the language.

An example, as provided in the bill, is where an employer gives a memo to employees requesting employees stop using the words 'husband' and 'wife'.

Clause 6 applies in circumstances where an entity provides facilities or services that do not specifically accommodate persons who are not, or do not identify as, male or female. It provides that a person must not treat, or propose to treat, the provider less favourably than the person treats, or would treat, a relevant entity in circumstances that are the same or not materially different. In short, it would

make it unlawful to discriminate against a provider of facilities or services that does not specifically accommodate persons who are not male or female or do not identify as male or female. For example, during a tender process for a contract, a business's bid may be unsuccessful because the business does not provide bathrooms specifically for persons who are not, or do not identify as, male or female.

There were seven submissions made to the committee. The submitters included the Anti-Discrimination Commission—the Queensland Human Rights Commission, as it is now known—Caxton Legal, the Australian College of Nursing, the Australian Association of Social Workers, Fair Go for Queensland Women and two individual submitters. Of these seven stakeholders, five recommended that the bill not be passed. Two organisations—the Fair Go for Queensland Women and the Australian College of Nursing—did not expressly say that they supported the bill; however, their submission indicated support.

The main issues raised by stakeholders included protection of businesses and the necessity of the bill. It was noted that no complaints had been made to the Anti-Discrimination Commission of Queensland—now the Queensland Human Rights Commission—in relation to the subject matter of this bill. The Australian College of Nursing believed that nurses should not be sanctioned for using traditional gender-specific language, particularly if done so inadvertently and with no intent to cause harm, when assigned to care for an individual who identifies as transgender, gender diverse or non-binary. Fair Go for Queensland Women suggested that there needs to be the freedom to retain language that respectfully and explicitly defines and describes women and girls, their experiences and needs. They argued that there also needs to be the freedom to use such gender-specific language in our society without being targeted for harassment, censure or abuse.

While acknowledging the concerns of the mover of the private member's bill, ultimately a legislature cannot legislate common sense. Governments, wherever they may be, should be encouraging more freedom, not more law. Quiet Queenslanders know instinctively that whenever legislatures get involved in what its citizens can and cannot say, it not only guarantees bad law but also guarantees less freedom. Ultimately, this is why the opposition will not be supporting the bill.