

Queensland Discrimination Law Changes



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What do we want changed?

The Queensland **Respect at Work Amendment Act** introduced in September 2024 contained a number of important reforms to Queensland discrimination laws.

They included modernising and updating the existing sexual harassment offence to include two new offences making it unlawful to harass a person on the grounds of their sex, or to create or facilitate a hostile work environment on the grounds of a person's sex.

These were important reforms recommended by the Australian Human Rights Commission in the seminal 'Respect at Work' Report written by former Sex Discrimination Commissioner Kate Jenkins in 2020.

These reforms were adopted into the Commonwealth's Sex Discrimination Act and have been the law since 2022 and 2023 and mean that Queensland law will replicate the Commonwealth law.

The second and third part of the reforms were key recommendations from the 2022 Queensland Human Rights Commission 'Building Belonging' Report to modernise the Queensland Anti Discrimination Act.

They included a package of new and updated protected attributes, which are personal characteristics that are legally safeguarded from discrimination, harassment, or unfair treatment. These attributes are protected because they relate to aspects of identity that historically or currently have been grounds for prejudice and inequality.

Protected attributes under Queensland law include characteristics such as age, sex, race and nationality. The reforms included new characteristics such as irrelevant medical records, being subject to family and domestic violence, or for physical characteristics.

Updated attributes include a more modern definition of sexuality, pregnancy including potential pregnancy e.g., a person may be seeking fertility treatment, or gender identity recognising trans and intersex individuals. The third element of reforms was the introduction of a new positive duty for all duty holders, such as an employer, to put in place reasonable and proportionate measures to prevent all forms of discrimination from occurring in their workplace, so far as possible.

Currently, all employers are legally liable if discrimination or harassment occurs on the basis of sexual harassment or a protected attribute, but only where an individual complaint is made and the employer is found to have not put in place prevention measures.

So what's the problem?

These reforms were passed by the Queensland Parliament in September 2024 and were scheduled to commence from 1 July 2025, allowing a nine-month period for the Queensland Human Rights Commission to develop a suite of public guidance materials to inform all Queensland duty holders on the steps they needed to take to comply from that date.

However, in April 2025 the new LNP Government introduced laws to 'pause' the reforms claiming stakeholders, including the Queensland Council of Unions, require further consultation about them.

What are the stage 2 reforms?

This next or second stage of reforms is expected to include a number of other changes, including powers for the QHRC to oversee the new positive duty, a standalone positive duty for people with a disability, and reform of the current religious exception which continues to allow discrimination to occur by faith-based schools in certain circumstances.

For example, it is currently legal for a faith-based school to terminate a staff member if they apply for leave to attend a fertility treatment, marry if they have not had a former marriage annulled, be a single or divorced parent, or be LGBTIQ – to name a few real

This reform will flip the onus from individuals to the duty holder and ensure that all duty holders are focused on prevention. This is also consistent with how the positive duty to ensure work health and safety in Australian workplaces has applied since the 1990s.

To be clear, no further consultation is required on these new laws. They are the law in Queensland now but simply need a date to commence operation.

However, consultation does need to commence on drafting laws to deal with the remaining recommendations from the 2022 Building Belonging Report, and reforms to the Queensland Human Rights Commission itself. This is where there is no consensus between parties on the nature of the changes.

cases of what is occurring. These practices should not be allowed to continue where lawful discrimination intrudes into private conduct of individuals.

The Queensland Council of Unions also considers it is time to streamline work-related complaints by reducing the lengthy and duplicated complaints processes before the Queensland Human Rights Commission and the Queensland Industrial Relations Commission which often retraumatise complainants, by allowing an opt in complaint process to one tribunal, the QIRC, from day one.