Queensland

Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Bill 2018
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2018

A Bill

for

An Act to amend the Anti-Discrimination Act 1991 for particular purposes
The Parliament of Queensland enacts—

Clause 1 Short title

This Act may be cited as the Anti-Discrimination (Right to Use Gender-Specific Language) Amendment Act 2018.

Clause 2 Act amended

This Act amends the Anti-Discrimination Act 1991.

Clause 3 Insertion of new s 8A

After section 8—

insert—

8A Discrimination on the basis of use of gender-specific language

(1) The Act prohibits discrimination, including direct discrimination and indirect discrimination, on the basis of the use of gender-specific language.

(2) However, subsection (1) does not apply to the use of gender-specific language—

(a) in a way that is, or causes, sexual harassment; or

(b) in a way that is unlawful discrimination on the basis of an attribute; or

(c) with the intention of offending, humiliating or intimidating another person.

Clause 4 Amendment of s 10 (Meaning of direct discrimination)

Section 10—

insert—

(1A) 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.

Examples—

1 H is C’s teacher. C submits a piece of assessment to H. In the assessment, C regularly uses the words ‘he’, ‘she’, ‘him’ and ‘her’. H, when marking the assessment, deducts marks for use of the gender-specific language.

2 R is D’s manager. R hears D addressing a group of customers as ‘guys’. R asks D to undertake sensitivity training and notes the matter on D’s employment record.

(6) If there are 2 or more reasons why a person treats, or proposes to treat, another person who uses gender-specific language less favourably, the person treats the other person less favourably on the basis of the use of gender-specific language if the use of the language is a substantial reason for the treatment.

Clause 5 Amendment of s 11 (Meaning of indirect discrimination)

Section 11—

insert—

(1A) 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.

Example—

An employer gives a memo to employees requesting employees stop using the words ‘husband’ and ‘wife’.
Clause 6  Insertion of new ch 4, pt 5

Chapter 4—
insert—
Part 5  Provision of facilities or services that do not accommodate particular persons

124B Provision of facilities or services that do not accommodate particular persons

(1) This section applies if an entity (the provider) provides facilities or services that do not specifically accommodate persons who are not, or do not identify as, male or female.

(2) 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.

Examples of less favourable treatment—

1 An advocacy group runs a targeted advertising campaign against particular businesses that do not provide bathrooms specifically for persons who are not, or do not identify as, male or female.

2 During a tender process for a contract, a business’s bid is unsuccessful because the business does not provide bathrooms specifically for persons who are not, or do not identify as, male or female.

(3) In this section—

relevant entity means an entity that provides facilities or services that specifically accommodate persons who are not, or do not identify as, male or female.

Clause 7  Amendment of schedule (Dictionary)

Schedule—
insert—

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

Examples—

male, female, man, woman, boy, guy, girl, him, her, he, she, Mr, Mrs, Miss, Ms, husband, wife, widow or widower