

20 facts about the Act

The Queensland Anti-Discrimination Act received assent on 9 December 1991. In his second reading speech, the Attorney-General described the Act as 'a signal which establishes a new, normative standard of civilised behaviour in this State'.

Key features of the Act are listed below.

- The Act recognises the international human rights instruments as the framework within which the ADA operates.
- The preamble to the Act states that Parliament considers that: 'everyone should be equal before and under the law and have the right to equal protection and equal benefit of the law without discrimination'.
- The objects of the Act are 'to promote equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity and for sexual harassment and certain associated objectionable conduct.'
- The Act is beneficial legislation. That is, legislation that gives some benefit, or remedies an injustice to a person or class of persons
- The Act is written in plain English and gender neutral language.
- One of the Commission's roles is to promote understanding and acceptance, and the public discussion, of human rights in Queensland.
- One of the Commission's roles is to consult with various organisations to ascertain means of improving services and conditions affecting groups that are subjected to contraventions of the Act.
- The Act covers discrimination because of characteristics or imputed characteristics that are associated with particular grounds of discrimination.
- An employer is vicariously liable for the actions of their worker or agent.
- The Act states that 'A person must not request or encourage another person to contravene the Act.' A complaint may be made about someone who does.
- Asking a person to supply information on which unlawful discrimination might be based, is grounds for a complaint.
- As well as discrimination and sexual harassment complaints, the Act protects against other associated objectionable conduct. This includes: requesting or encouraging a contravention of the Act; unlawful requests for information; and vilification on the grounds of race, religion, sexuality or gender identity.
- Vilification complaints may be made by a relevant entity about conduct that has affected or is likely to affect people they represent.
- The Act protects complainants and other people who are involved in a complaint through victimisation provisions. This means that a person can bring a complaint to the Commission if they have been victimised because they have, or intend to bring a complaint under the Act.
- The conciliation process is confidential, free and the conciliators are impartial.
- Commenting on the conciliation process former Tribunal President Roslyn Atkinson said that: 'a solution worked out between the parties is more often one that they can live with, and one that will effect a change in attitude and behaviour, rather than a solution which is imposed...'
- Decisions of the Tribunal and agreements reached through conciliation are enforceable.
- The Commission can intervene in court proceedings that involve human rights issues, with the permission of the court.
- The Act creates 'offences' for serious contraventions to assist in the enforcement of the Act's purposes. This creates a criminal liability for these breaches of the Act, and a financial penalty is specified in the Act.
- The Act includes discriminatory advertisement provisions. A published advertisement that shows an intention to contravene the Act could be the subject of a complaint or a fine.

"The legislation is about ensuring that all Queenslanders get a fair go, regardless of their race, sex or marital status. It's not about favouritism for specialist minority groups. It's about ensuring that every citizen has an equal opportunity" – Dean Wells

Fair and Inclusive Queensland Round Tables

Since 1991 the *Anti-Discrimination Act* has been offering Queenslanders protection from discrimination, sexual harassment and associated objectionable conduct. While the Act has achieved a lot in the past 20 years, we are still seeing instances of discrimination in our community. This is a sign that more needs to be done.

As part of the *Anti-Discrimination Act's* twentieth anniversary celebrations, the Anti-Discrimination Commission Queensland will host a series of community round tables to ask Queenslanders what more can be done to build a fair and inclusive Queensland.

ADCQ invites Queenslanders to attend a round table event, and contribute to the conversation on creating an environment where human rights flourish. The round table events will focus on identifying opportunities for development of community partnerships to advance human rights in our communities, in our cities and across the state.

The round table events are being held in fifteen locations across the state and registration is open to everyone.

If there was one thing you would do to make Queensland more fair and inclusive, what would it be? To register for a round table event phone 1300 130 670 or email info@adcq.qld.gov.au.

As part of the twentieth anniversary celebrations, ADCQ has produced a video of high profile as well as every day Queenslanders giving their thoughts on how to build a fair and inclusive Queensland.

With responses ranging from 'just be nicer to each other every day' to 'provide better internet access in regional areas', the video provides great insight into the human rights issues that are important to Queenslanders.



If there was one thing I would do to make Queensland more fair and inclusive, it would be.....

Highlights from the video will be shown at the upcoming round tables, with the full version being available after the events.

ADCQ thanks all of those people who gave their time to participate in the filming.



Follow us at Fair and Inclusive Queensland Round Tables

Round table venues and dates

Brisbane	Gold Coast	Logan	Sunshine Coast
15 November	10 November	17 November	3 November
Cairns	Hervey Bay	Mackay	Toowoomba
3 November	2 December	30 November	24 November
Charters Towers	Innisfail	Mt Isa	Townsville
26 October	29 November	6 December	8 November
Gladstone	Ipswich	Rockhampton	
9 December	22 November	25 November	

For full details visit www.adcq.qld.gov.au

Anti-Discrimination Champions



Sergeant Dimitrios (Jim) Bellos

**Regional Cross Cultural Liaison Officer,
Metropolitan South Region, Queensland
Police Service**

The Metropolitan South Region in Brisbane is the most multicultural policing region in Queensland with 200 different communities who speak over 150 different languages and practise over 130 different faiths. In response to the issues associated with this change, Sergeant Bellos formalised links between the communities and the police to instil trust, understanding and harmony. Sergeant Bellos formulated community consultative groups, multi faith dinners, information sessions and, most notably, the award winning youth sporting program 'For the Love of the Game', to encourage interaction and improved understanding of more than 6000 youths from diverse backgrounds. Since the formulation of this program there has been a noted decrease in youth crime in the region.

Sergeant Bellos has gained the respect and trust of local community leaders and residents and has since received the 2009 Queenslander of the Year award. He has also received three national and State awards for the, 'For the Love of the Game' program and six national and State awards for his own outstanding contribution to enhancing relations within diverse multicultural communities.

ADCQ has a commitment to present a Fair Play Award at the annual QPS World Cup Multicultural Football Tournament.



Phillip Tahmindjis

Dr Tahmindjis is currently the co-director of the International Bar Association's Human Rights Institute. His work in this capacity has included the establishment of a bar association in Afghanistan, capacity building for the Law Society of Swaziland, human rights training for lawyers in Iraq and Palestine, humanitarian law training in the Former Yugoslavia, rule of law missions to Russia and Nepal and the establishment of global guidelines for human rights fact finding.

Previously, he was Associate Professor of Law at Queensland University of Technology and Head of the School of Law for three and a half years.

Dr Tahmindjis was a legal consultant to the federal Human Rights and Equal Opportunity Commission and the Queensland Anti-Discrimination Commission from 1989 to 1997.

For three years, Dr Tahmindjis was a Member of the Queensland Anti-Discrimination Tribunal.

Dr Tahmindjis is the author of four books and numerous articles on discrimination law and human rights and was the consulting editor for Australian and New Zealand Equal Opportunity Law and Practice, prior to his current appointment.

Fundamentally, inclusion is the principle that we are all entitled to participate fully in all aspects of society; that we all have the same rights and responsibilities; that we all have something to contribute. - Melinda Jones, author



Belza (Bill) Lowah

Bill Lowah is a Torres Strait Islander social commentator, originally from Thursday Island.

He has been prominent in social justice and community organisations for more than 30 years, specifically working in the areas of Indigenous health, housing and education.

He was a member of the Council for Aboriginal Reconciliation for the whole of its life. The Council was established directly as the result of a recommendation of the Royal Commission into Aboriginal Deaths in Custody. Bill is a current member of Reconciliation Queensland's Committee.

Bill was also appointed as a member of the Indigenous Advisory Council to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families.

Most of all, Bill is passionate about informing Aboriginal and Torres Strait islander peoples about their rights, as well as keeping their culture strong.

He has recently been appointed to the National Indigenous Knowledge Centre Project team, which aims to develop ideas to strengthen and support Indigenous culture and knowledge.

Bill Lowah worked as Indigenous Liaison Officer with ADCQ and delivered the Tracking Your Rights package to eight islands of the Torres Strait and more than 50 other mainland communities. Bill's is the voice in the audio information spoken in Torres Strait Creole (Kriol) available from the ADCQ website.



Adele Rice

Ms Rice is the founding principal of Milpera State High, a unique school which since 1984 has operated as an intensive English language preparation centre, currently with 250 students from more than 45 countries. Since commencing, the school has catered for over 12,000 students from 120 countries.

The school's mission statement says that the school 'is committed to maximising the full human potential of every student within a socially just and culturally inclusive environment' and Ms Rice is passionate about seeing that all her students do attain their potential, no matter what barriers they face.

As principal of a school for refugee and immigrant young people, Ms Rice understands that the migration experience 'is the most life changing transition of all.' But she says that education is one of the things that makes the biggest difference in lives, and has the ability to change lives.

Ms Rice has been described as one of the most inspirational educators in the state and has been recognised with many awards including: a Churchill Fellowship, the Save the Children White Flame award, a Paul Harris Fellowship (Rotary), Queensland Multicultural Achiever award, and was recently named joint winner of the Professor Betty Watts Memorial Award for an Outstanding Contribution to Teaching. It is however her students who inspire her and she describes her work as an 'amazing privilege.'

Ms Rice participates in ADCQ Advisory Groups which provide an opportunity to exchange information and views on issues of importance to both the Commission and the sector.

Fundamentally, inclusion is the principle that we are all entitled to participate fully in all aspects of society; that we all have the same rights and responsibilities; that we all have something to contribute. - Melinda Jones, author

Queensland Civil and Administrative Tribunal Decisions

***Attrill v State of Queensland* [2011] QCAT 361 (5 August 2011)**

A recent decision of the Queensland Civil and Administrative Tribunal (QCAT) raises concerns about the level of protection afforded to Queensland public service employees under the *Anti-Discrimination Act 1991*.

Ms Attrill lodged a complaint of impairment discrimination with the Anti-Discrimination Commission Queensland. She alleges her employer (Queensland Corrective Services) is treating her less favourably by subjecting her to an involuntary ill health retirement process, because of her impairment.

Ms Attrill applied to QCAT for an injunction to restrain her employer from continuing the ill health retirement process, pending the outcome of the complaint.

The employer opposed the application, and argued that QCAT does not have jurisdiction to grant the injunction because Ms Attrill's complaint is not a valid complaint. The argument is that Part 7 of the Public Service Act 2008 (under which the ill health retirement is being managed) is not subject to the provisions of the *Anti-Discrimination Act 1991*.

QCAT found that, in this case, there is such inconsistency between the two Acts that they cannot be reconciled.

QCAT accepted the legal argument that as the Public Service Act 2008 is a later enactment than the *Anti-Discrimination Act 1991*, the later act, by implication, repeals the conflicting provisions of the *Anti-Discrimination Act*. QCAT found that Ms Attrill does not have grounds on which to make a valid complaint to the ADCQ.

The absence of a valid complaint means that QCAT does not have jurisdiction to grant the injunction sought, and the application was refused.

Ms Attrill has appealed the decision. Given the potential serious consequences for public sector workers as a result of this decision, the Anti-Discrimination Commissioner has sought and been granted leave to intervene in the appeal, on the issue of interpretation of the legislation.

***Eatock v Bolt* [2011] FCA 1103 (28 September 2011)**

(Based on summary provided by the Federal Court of Australia)

Ms Eatock brought a complaint under the Commonwealth *Racial Discrimination Act 1975* (Part IIA – Prohibition of offensive behaviour based on racial hatred).

The complaint was made on her own behalf and on behalf of other people who like her, have a fairer rather than darker skin, and who by a combination of descent, self-identification and communal recognition are, and are recognised as, Aboriginal persons.

Mr Bolt and the Herald and Weekly Times were respondents to the complaint about two newspaper articles and two blog articles written by Mr Bolt and published in the Herald Sun newspaper and website.

The complaint alleged that the articles convey offensive messages about fair-skinned Aboriginal people, by saying that they are not genuinely Aboriginal people and are pretending to be Aboriginal in order to advance their careers.

To succeed in the complaint, Ms Eatock had to establish that:

- It was reasonably likely that fair skinned Aboriginal people (or some of them) were offended, insulted, humiliated or intimidated by the conduct; and
- The conduct was done by Mr Bolt and the Herald & Weekly Times, including because of the race, colour or ethnic origin of fair-skinned Aboriginal people.

The respondents denied that any offence was reasonably likely to be caused by the articles, and that the articles had anything to do with race, colour or ethnic origin. In addition, they claimed that their conduct was excused or exempted by another section of the Racial Discrimination Act (18D). That section exempts 'anything said or done reasonably and in good faith' including the making of a fair comment in a newspaper.

Justice Bromberg found that:

- the newspaper articles were plainly calculated to convey a message about the race, ethnicity or colour of fair-skinned Aboriginal people;
- fair-skinned Aboriginal people were reasonably likely to have been offended, insulted, humiliated or intimidated by the articles;
- the defence that the articles were written 'reasonably and in good faith' was rejected because of the manner in which the articles were written, including that they contained factual errors, distortions of the truth and inflammatory and provocative language;
- there was no finding in relation to the blog articles as they were only raised late in the proceedings.



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In a separate decision - *Eatock v Bolt* (No 2) [2011] FCA 1180 - of 19 October 2011, the court ordered that:

- The Herald Sun publishes a corrective notice (in the form set out in the annexure to the order) adjacent to Mr Bolt's regular column, in both print and online versions. The notice is to be published on two occasions within 14 days of the order.
- The Herald Sun is restrained from republishing the articles or any substantial part of the articles. If the articles are published on the newspaper's website for historical or archival purposes, the corrective notice must also appear there.
- The respondents are to pay the bulk of the Applicant's costs, despite the fact she rejected an offer to settle by the newspaper. The court found that it was not unreasonable to reject the offer, because the terms offered did not include acknowledgement of wrong doing or an apology.

Racial hatred provisions under the Queensland *Anti-Discrimination Act 1991*

Queensland legislation differs significantly from the Commonwealth Act discussed above. The Queensland Act prohibits vilification (rather than offensive behaviour) and in addition to racial vilification, covers vilification on the grounds of religion, sexuality or gender identity.

To succeed in a vilification complaint, four elements that must be proved:

- a public act;
- that incites;
- hatred towards, serious contempt for, or severe ridicule of a person or group of persons;
- on the ground of race or religion or sexuality or gender identity.

Like the Commonwealth legislation, the Queensland legislation also exempts some behaviour, including 'a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including public discussion or debate about, and expositions of, any act or matter.'

The Queensland legislation also creates an offence for serious acts of vilification which include threatening physical harm to a person or their property, or inciting others to threaten such physical harm. Penalties apply for contraventions of the 'serious acts of vilification' provisions.

ADCQ Public training calendar January-June 2012

Date	Session	Time	Location
22 February	Understanding Discrimination Law	9am-1pm	Brisbane
6 March	Understanding Discrimination Law for Community Organisations	9am-1pm	Brisbane
13 March	Introduction to the Anti-Discrimination Act	10:30am-12:30pm	Rockhampton
15 March	Contact Officer	9am-4pm	Brisbane
15 March	Understanding Discrimination Law	9am-1pm	Rockhampton
20 March	Contact Officer	9am-4pm	Rockhampton
21 March	Introduction to the Anti-Discrimination Act	10:30am-12:30pm	Rockhampton
27 March	Introduction to the Anti-Discrimination Act for Managers	9am-1pm	Brisbane
29 March	Tracking Your Rights	10am-12pm	Brisbane
17 April	Managing Complaints in the Workplace	9am-3pm	Brisbane
2 May	Understanding Discrimination Law	1pm-5pm	Brisbane
16 May	Introduction to the Anti-Discrimination Act for Managers	9am-1pm	Brisbane
22 May	Contact Officer	9am-4pm	Brisbane
5 June	Tracking Your Rights	10am-12pm	Brisbane
7 June	Contact Officer - Refresher	9am-1pm	Brisbane
15 June	Understanding Discrimination Law for Community Organisations	9am-1pm	Brisbane
20 June	Managing Complaints in the Workplace	9am-3pm	Brisbane

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