

What this fact sheet is about

New types of discrimination, set out in chapter 5B of the *Anti-Discrimination Act 1991*, are unlawful from 30 March 2018.

The purpose of chapter 5B is to protect residents of regional towns near large resource projects from being excluded from working on the projects, and to enable fly-in fly-out workers to move into the local towns if they choose, without losing their job on the project.

This fact sheet explains how the provisions operate.

Unique types of discrimination

The protection in Chapter 5B is specific to residents of towns near large resource projects.

There are three unique types of discrimination:

- disadvantaging a local resident in a recruitment process;
- not offering work during recruitment to a person because they are a local resident; and
- dismissing a worker because they are, or became, a local resident and they choose to travel to the project other than as a fly-in fly-out worker.

The three types of discrimination are different to the traditional types of discrimination prohibited in the Act. To avoid confusion, the definitions of direct and indirect discrimination do not apply to chapter 5B.

Asking where you live

The *Anti-Discrimination Act 1991* prohibits asking information on which unlawful discrimination might be based. This prohibition does not apply to chapter 5B.

This means that workers, and people applying for work, at a large resource project can be asked where they live.



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What is a large resource project?

A large resource project is a resource project:

- (a) for which an environmental impact statement (EIS) is required; or
- (b) that holds a site-specific environmental authority under the *Environmental Protection Act 1994* and:
 - (i) has, or is projected to have, a workforce of 100 or more workers; or
 - (ii) has a smaller workforce decided by the Coordinator-General.

A list of the large resource projects is published by the Office of the Coordinator-General on its website. It includes the names of the towns that comprise the nearby regional communities for each project.

Resident of a nearby regional community

A person is a resident of a nearby regional community if their **principal place of residence** is within one of the towns listed for the large resource project.

Generally, the towns are within 125 km of the main access to the project and have a population of more than 200 people. However, the Coordinator-General may decide the towns are those within a greater or smaller distance, or with a smaller population.

Find out if a project or town is covered

The list of large resource projects and towns is online at: www.dsd.qld.gov.au/list-of-large-resource-projects.html

Who is liable

The prohibitions in chapter 5B apply to owners of large resource projects, and if there is a principal contractor for the project, to the principal contractor.

The owner is responsible for discrimination by a related body corporate or an agent of either of them, and a principal contractor is responsible for discrimination by a related body corporate or an agent of either of them. Where a principal contractor is taken to have discriminated, the owner and principal contractor are jointly and severally liable.

This means that a complaint can be made against an owner, and/or a principal contractor.

Presumed reason

Job applicants and workers are not usually in a position to discover the reasons for decisions made in recruitment and work. The reason and intent is known by the decision-maker.

For complaints of not being offered work in recruitment, or being dismissed for no longer travelling by fly-in fly-out, there is a presumption that the action was taken for the prohibited reason, namely being a local resident.

It is then for the owner (and/or principal contractor) to show that the decision was not made because the person was a local resident.

The discrimination complaint process

If a person believes they have been discriminated against, the person may lodge a complaint with the Anti-Discrimination Commission Queensland. The complaint must be in writing, and should be made within one year of the discrimination.

If a complaint is accepted, the Commission will try to resolve the complaint through conciliation. The Commission will usually direct the parties to attend a conciliation conference either in person or by telephone.

If a complaint is not resolved through conciliation, it may be referred to the tribunal for hearing and determination. For complaints under chapter 5B, the tribunal is the Queensland Industrial Relations Commission.

For more information about the complaint process, go to the Commission's website at <http://www.adcq.qld.gov.au/complaints/making-a-complaint>, or telephone enquiries on 1300 130 670.

Regulation of large resource projects

The *Strong and Sustainable Resources Communities Act 2017* prohibits the use of a 100% fly-in fly-out workforce in the operational stage, and sets requirements about social impact assessments, including priority for local residents in recruitment.

For enquiries other than discrimination, go to the Office of the Coordinator-General's website www.dsdmip.qld.gov.au/SSRC or email SSRCenquiries@coordinatorgeneral.qld.gov.au

**Anti-Discrimination Commission
Queensland**

Phone: 1300 130 670

Email: info@adcq.qld.gov.au

www.adcq.qld.gov.au