

# Review of the Queensland Human Rights Commission and Queensland's Anti-Discrimination and Human Rights statutory framework

*Strategic review of the Queensland Human Rights Commission*

*Further review of the Human Rights Act 2019*

*Review of the uncommenced provisions of the Respect at Work Act and Other Matters Amendment Act 2024 amending the Anti-Discrimination Act 1991*

## Terms of Reference

### BACKGROUND

The Queensland Human Rights Commission (Commission) is a statutory body established under the *Anti-Discrimination Act 1991* (Anti-Discrimination Act), with functions under that Act and the *Human Rights Act 2019* (Human Rights Act).

#### **Part A - Strategic review of the Queensland Human Rights Commission**

Section 247 of the Anti-Discrimination Act establishes the process for a strategic review of the Commission.

Under section 247(9) of the Anti-Discrimination Act, a strategic review includes a review of the Commission's:

- (a) functions;<sup>1</sup> and
- (b) performance of the functions to assess whether they are being performed economically, effectively and efficiently.

Each strategic review must be undertaken by an appropriately qualified person that is appointed by the Governor in Council.

#### **Part B - Further review of the Human Rights Act 2019**

Section 95 of the Human Rights Act provides that the Attorney-General must ensure the operation of the Human Rights Act before 1 July 2023 is reviewed as soon as possible after that date. On 26 March 2025, the Attorney-General and Minister for Justice and Minister for Integrity (Attorney-General) tabled the *Placing People at the Heart of Policy: First Independent Review of the Human Rights Act 2019 (Qld) – Final Report* (the first review report), indicating that the Queensland Government had agreed not to implement the report's recommendations.

Additionally, section 96 of the Human Rights Act provides that the Attorney-General must ensure a further review of that Act, by an independent and appropriately qualified person, is to be conducted as

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<sup>1</sup> Refer to section 235 of the Anti-Discrimination Act, and section 61 of Human Rights Act.

soon as practicable after 1 July 2027 or, if the Attorney-General considers it appropriate, at any time after tabling of the first review report but before 1 July 2027.

A review under section 96 of the Human Rights Act must consider:

- (a) whether additional human rights should be included as human rights under the Human Rights Acts, including rights under the:
  - (i) International Covenant on Economic, Social and Cultural Rights; or
  - (ii) Convention on the Rights of the Child; or
  - (iii) Convention on the Rights of Persons with Disabilities; or
  - (iv) Convention on the Elimination of All Forms of Discrimination against Women;
- (b) whether further or different provision should be made about proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public entities made unlawful because of the Human Rights Act;
- (c) whether the amendments made by the Human Rights Act to the *Corrective Services Act 2006* and the *Youth Justice Act 1992* are operating effectively or whether further or different provision should be made for the interrelationship between the Human Rights Act and those Acts.

### **Part C - Review of the uncommenced provisions of the Respect at Work Act amending the Anti-Discrimination Act**

On 10 September 2024, the *Respect at Work and Other Matters Amendment Act 2024* (Respect at Work Act) was passed by the Legislative Assembly. The Respect at Work Act made various amendments to the Anti-Discrimination Act. With the exception of provisions which made amendments to representative complaints under the Anti-Discrimination Act (which commenced on 1 December 2024), the majority of the provisions of the Respect at Work Act (including those giving effect to the amendments summarised above) were due to commence on 1 July 2025.

On 14 March 2025, the Government announced its decision to pause the commencement of the Respect at Work Act. A ministerial statement by the Attorney-General highlighted the following matters:

- (a) the Department of Justice had raised serious concerns about the attribute of ‘irrelevant criminal record’ impacting high risk discretionary decisions such as weapons licensing, police protection notices and security provider licensing;
- (b) the Respect at Work Act had been rushed through Parliament in the final days of the former government, and, as a result, there was the prospect of serious unintended and unwanted consequences;
- (c) due to the impending commencement date of 1 July 2025, which did not allow sufficient time for consultation or policy work, amendments were necessary to delay the commencement of the reforms until a date set by proclamation.

On 30 April 2025, the *Crime and Corruption (Restoring Reporting Powers) and Other Legislation Amendment Act 2025* was passed by the Legislative Assembly. This included amendments to delay the commencement of the Respect at Work Act from 1 July 2025 to a date to be set by proclamation.

It is a government election commitment to consult with stakeholders about the next step for anti-discrimination law in Queensland. A review will assist to deliver on that commitment.

## **QUALIFICATIONS OF REVIEWER**

Under section 247 of the Anti-Discrimination Act, the strategic review is to be conducted by an independent and appropriately qualified person appointed by the Governor in Council. The same qualifications are required for a person appointed to undertake a further review under section 96 of the Human Rights Act.

The Reviewer, appointed to undertake the strategic review of the Commission, will also be responsible for undertaking a further review of the Human Rights Act and a review of the uncommenced provisions of the Anti-Discrimination Act.

The Reviewer will need to demonstrate they have no pecuniary interest in the outcome of the review and have no established relationship with the Commission. The Reviewer will also be required to demonstrate independence from the Commission.

## **POWERS OF REVIEWER**

As to those aspects of the review related to section 247 of the Anti-Discrimination Act and as provided for by section 248 of the Anti-Discrimination Act, the Reviewer will have the powers of an authorised auditor under the *Auditor-General Act 2009* for an audit of an entity, and that Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of an entity.

## **SCOPE OF THE REVIEW**

The scope of the review is:

- (a) a strategic review of the Commission as required under section 247 of the Anti-Discrimination Act;
- (b) a further review of the Human Rights Act as required pursuant to section 96 of the Human Rights Act;
- (c) a review of the uncommenced provisions of the Respect at Work Act amending the Anti-Discrimination Act.

### **Part A - Strategic review of the Queensland Human Rights Commission**

In accordance with section 247 of the Anti-Discrimination Act, the Reviewer is required to review the:

- (a) functions of the Commission;
- (b) performance of the Commission's functions to assess whether they are being performed economically, effectively and efficiently.

The Reviewer is also required to examine all structural and operational aspects of the Commission, as well as its relationship with public sector entities, victims of crime and duty holders under the Anti-Discrimination Act.

### **Part B - Further review of the Human Rights Act 2019**

In accordance with section 96, the Reviewer is required to undertake a review of the Human Rights Act. Complying with section 95(4) and 96(4), the Reviewer must consider the following:

- (a) whether additional human rights should be included as human rights under the Human Rights Act, including, but not limited to, rights under–
  - (i) the International Covenant on Economic, Social and Cultural Rights; or
  - (ii) the Convention on the Rights of the Child; or
  - (iii) the Convention of the Rights of Persons with Disabilities; or
  - (iv) the Convention on the Elimination of All Forms of Discrimination against Women;
- (b) whether further or different provision should be made in the Human Rights Act about proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public entities made unlawful because of the Human Rights Act;
- (c) whether the amendments made by the Human Rights Act to the *Corrective Services Act 2006* and the *Youth Justice Act 1992* are operating effectively, or further or different provision should be made for the interrelationship between the Human Rights Act and those Acts.

The Reviewer is to also consider how to best protect the rights of victims of crime.

In accordance with section 96(6), the Reviewer must include a recommendation about whether a further review of the Human Rights Act is necessary.

The Reviewer should also address whether any recommendations should be made concerning the operation of and reform to the Human Rights Act.

### **Part C - Review of the uncommenced provisions of the Respect at Work Act amending the Anti-Discrimination Act**

The Reviewer is required to review the uncommenced provisions of the Respect at Work Act amending the Anti-Discrimination Act, and to:

- (a) consider the potential operation of those provisions;
- (b) to make any recommendations concerning the operation of and reform to the Anti-Discrimination Act.

In undertaking the work referred to at (a) and (b) above, the Reviewer should consider the implications, if any, for victims of crime.

In conducting each of the reviews, the Reviewer is to conduct targeted consultation with stakeholders in relation to the matters above.

### **COMPLETION OF REVIEW REPORT**

The **review report** is to be provided to the Attorney-General and Human Rights Commissioner (the Commissioner) by 31 March 2027.

The Reviewer is required to include draft legislative provisions in the report, where appropriate, which give effect to the report recommendations. If the Reviewer considers it appropriate, the Reviewer may provide an interim report as to one or more of the three reviews.

The strategic review of the Commission part of the report will be provided to the Attorney-General and the Commissioner to comply with section 249 of the Anti-Discrimination Act:

- (a) Section 249(1) of the Anti-Discrimination Act requires the Reviewer to give a copy of the **proposed report** to the Attorney-General and the Commissioner.
- (b) Under section 249(2) of the Anti-Discrimination Act, the Commissioner may provide written comments to the Reviewer on anything in the proposed report within 21 days of the proposed report having been given.
- (c) Section 249(3) of the Anti-Discrimination Act provides that if comments are provided to the Reviewer and there is agreement between the Reviewer and the Commissioner on how to resolve a comment, the report is to be amended as agreed to dispose of the comment. That section further provides that if the Reviewer and the Commissioner cannot agree about how to dispose of a comment, the comment must be included in full in the report.
- (d) Section 249(4) of the Anti-Discrimination Act requires the Reviewer, after complying with sections 249(1) and (3) of the Anti-Discrimination Act, to give the review report to the Attorney-General and the Commissioner.
- (e) Section 249(5) of the Anti-Discrimination Act requires that the review report provided under section 249(4) of the Anti-Discrimination Act be the same as the proposed report subject to any changes made in response to comments provided by the Commissioner.

To ensure compliance with section 249(6) of the Anti-Discrimination Act, the review report must be tabled in the Legislative Assembly within 3 sitting days after it is given to the Attorney-General. This also satisfies the obligations that a further review report must be tabled within 14 sitting days, after it is given to the Attorney-General.