

Director, Legal Policy
Department of the Attorney-General and Justice
GPO Box 1722
Darwin / Northern Territory / 0801
By email: Policy.AGD@nt.gov.au

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RESPONSE TO DRAFT ANTI-DISCRIMINATION AMENDMENT BILL 2022

To the Director, Legal Policy,

In 2018, the Central Australian Aboriginal Congress ('Congress') made a submission to the NT Department of the Attorney-General and Justice, in support of the process to modernise the *Anti-Discrimination Act 1992*.

In summary, in 2018 Congress outlined our support for the following areas to be amended:

- Inclusion of gender identity instead of the existing attribute of 'sex'
- Inclusion of intersex status
- Support for vilification provisions
- Inclusion of being subjected to domestic violence as an attribute
- Inclusion of accommodation status as an attribute
- Inclusion of socioeconomic status as an attribute
- Support for a representative complaint mechanism
- Support for the removal of restriction of activity on sexual harassment, and
- Conditional support for removing requirement of clubs to hold a liquor licence.

Expansion of protected attributes

It is pleasing to see the amendments to the protected attributes as set out in section 19 of the Draft Act, which have been updated and expanded to include language (including non-verbal); gender; sexual orientation; sex characteristics; relationship status (as opposed to marital status); accommodation status; socio-economic disadvantage; a person's employment as to sex work, including past sex work; carer responsibilities; disability; and persons subjected to domestic violence. We note that the definition of 'domestic violence' is drawn from the *Domestic and Family Violence Act 2007* and includes domestic and family relationships, including Aboriginal kinship relationships. Congress supports these amendments to expand the protected attributes.

Inclusion of systemic discrimination

Congress supports the updated objects of the Draft Act at s 3 and particularly welcomes the inclusion of s 3(c) related to promoting the identification and elimination of **systemic discrimination**. This is particularly important in the Northern Territory context, where impacts of colonisation – including the dispossession and impoverishment of our communities; the forcible removal of children from their families and its intergenerational effects; the suppression of culture and language and the ongoing experience of racism and discrimination – have served to entrench inequality and disadvantage that disproportionately impacts on Aboriginal people and communities.

Modernising language around disability

Congress supports the amendments that relate to disability including the modernisation of language referencing *disability* rather than *impairment*.

Inclusion of vilification provisions

Congress supports the proposed inclusion of s 20A *Offensive behaviour because of attribute*, which allow for vilification provisions within the Act. Our 2018 submission supported this on the grounds that the experience of racism is overwhelmingly common for Aboriginal people and is an acknowledged determinant of poor health and wellbeing.

Removal of requirement for club to sell/supply liquor

Congress supports the updated definition of 'club' in s 4(1), which removes the requirement for a club to sell or supply liquor for it to be considered under this Act. The removal of this requirement will broaden the scope of the Act to reduce discrimination that might otherwise lawfully occur in a club under the current interpretation of the Act, if a club otherwise meets the criteria but does not sell or supply alcohol.

Representative complaints

Congress strongly supports the proposed inclusion that allows for representative complaints to be made by an organisation or body on behalf of a group or individuals, as proposed by the amendment to s 60 at part (c) and further expanded in s 62A. In our 2018 submission, it was noted that making a complaint at an individual level can be prohibitive for reasons related (but not limited) to racism, disability, homelessness, domestic violence or socio-economic status. A person's capacity to make an individual complaint may come well after the protected attribute (e.g. homelessness, poverty, domestic and family violence) has been overcome, if at all.

Additional comments

The current *Anti-Discrimination Act 1992* includes at s 57 *Special Measures* the ability to positively discriminate in order to promote 'equality of opportunity for a group of people who are disadvantaged or have a special need because of an attribute'. Congress is pleased that no changes have been proposed to remove or amend this section.

Alongside these proposed amendments that provide a much-needed modernisation of anti-discrimination legislation in the NT, consideration must be made as to the current and future resourcing allocated to the Anti-Discrimination Commission so that it can effectively exercise its important function in protecting vulnerable Territorians from discrimination, particularly with the expansion of attributes and the proposed introduction of the representative complaint mechanism.

Sincerely,

Dr Donna Ah Chee
Chief Executive Officer

