



A•S•U
Australian Services Union

Protection from Discrimination

State protections against discrimination at work developed particularly during the mid-1970s, when the union movement began to lobby government to acknowledge rights of women; internally, debating maternity leave as an international labour standard.

Milestones of the 1980s and 1990s

- 1986: Human Rights and Equal Opportunity Commission (HREOC) established (renamed Australian Human Rights Commission or AHRC since August 2009).
- 1989: The *Privacy Act 1988* comes into force. Ten additional grounds of discrimination in employment, including age, are added under the International Labour Organisation Convention (ILO 111), increasing the number of, or grounds for, complaints to HREOC.
- 1990: The *Racial Discrimination Act 1975* (RDA) is amended to explicitly protect people against indirect discrimination.
- 1992: The *Disability Discrimination Act 1992* comes into force. The position of Disability Discrimination Commissioner is created within HREOC.
- 1993: The position of Aboriginal and Torres Strait Islander Social Justice Commissioner is created within HREOC. The Commissioner is given the role to monitor and report on the human rights situation of Indigenous Australians, as well as the operation of the *Native Title Act*.
- 1993: The Keating Labor Government made the *Industrial Relations Reform Act 1993* ensuring labour standards met Australia's international obligations underpinned by the ILO Conventions on Decent Work.
- The *Sex Discrimination Act 1984* (SDA) is amended to make dismissal on the grounds of family responsibilities against the law and to provide protection against sexual harassment in a broader range of areas.
- HREOC is given responsibility to monitor Australia's performance under the newly-ratified Convention on the Rights of the Child and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- The RDA is amended to make racial vilification against the law.
- 2004: The *Age Discrimination Act 2004* comes into force.

Collective Bargaining and *Fair Work Act 2009*

- It is typical for a union negotiated collective agreement to contain provisions that explain statutory rights in the workplace. For example, clauses that outline Equal Employment Opportunity in the workplace.
- The *Fair Work Act* supports numerous commonwealth and state legislation on anti-discrimination. Under section 351(1) of the Act, an employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

How the ASU can help

The ASU provides information, advice and representation to members regarding workplace rights and obligations. This factsheet provides general information only. Members should contact their ASU Branch in their state or territory for detailed and individually relevant advice www.asu.asn.au/contact

ILO Conventions underpin adverse action

- To belong to a union is to enjoy ILO conventions of *Freedom of Association and Protection of the Right to Organise Convention 1948* ('*Freedom of Association Convention*') and the *Right to Organise and Collective Bargaining Convention 1949* ('*Right to Organise Convention*').
- Today, the *Fair Work Act* makes adverse action a statutory right of working Australians and makes it unlawful to take action against any employee to prevent them from accessing a workplace right, such as the entitlement to affiliate with a union.

Main references

'Human Rights 21: Change and challenges',

<http://www.humanrights.gov.au/about/publications/hreoc21/page2.html>

Peter Sheldon and Louise Thornthwaite (2011), 'The State, Labour, and the Writing of Australian Labour History', *Labour History*, 100, May, 83-104

'Institutional discrimination against disabled people and the campaign for anti-discrimination legislation', *Critical Social Policy*, June 1992, 12: 5-22

'We need to talk about pregnancy discrimination',

http://www.asu.asn.au/media/women/20121003_pregnancy.html

