



New South Wales

Anti-Discrimination Amendment (Religious Vilification) Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Anti-Discrimination Act 1977* to make it unlawful to vilify a person or group of persons on the ground of the person's or group's religious belief or affiliation or engagement in religious activity.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 **Amendment of Anti-Discrimination Act 1977 No 48**

Schedule 1 inserts proposed Part 4BA into the *Anti-Discrimination Act 1977*.

The proposed part makes it unlawful for a person, by a public act, to incite hatred towards, serious contempt for or severe ridicule of a person, or group of persons, on the ground the person, or group—

- (a) has, or does not have, a religious belief or affiliation, or
- (b) engages, or does not engage, in religious activity.

However, proposed section 49ZE(2) makes clear that the following is not unlawful—

- (a) a fair report of an unlawful public act,

- (b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege in proceedings for defamation,
- (c) a public act, done reasonably and in good faith, for a purpose in the public interest, including academic, artistic, scientific, research or religious discussion or instruction.

Proposed section 49ZD makes clear a *public act* includes communication to the public and conduct observable by the public and the distribution or dissemination of certain matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for or severe ridicule of prescribed persons.



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Anti-Discrimination Amendment (Religious Vilification) Bill 2023

No. _____, 2023

A Bill for

An Act to amend the *Anti-Discrimination Act 1977* to make it unlawful to vilify a person or group of persons on the ground of religious belief or affiliation or religious activity.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Anti-Discrimination Amendment (Religious Vilification) Act 2023*.

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2 Commencement

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This Act commences on the day that is 3 months after the date of assent to this Act.

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Schedule 1	Amendment of Anti-Discrimination Act 1977 No 48	1
		2
Part 4BA		3
Insert after section 49ZC—		4
Part 4BA Religious vilification		5
49ZD Definitions		6
In this part—		7
<i>public act</i> includes—		8
(a) a form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, telecasting, screening and playing of tapes or other recorded material, and		9 10 11
(b) conduct, not being a form of communication referred to in paragraph (a), observable by the public, including—		12 13
(i) actions and gestures, and		14
(ii) the wearing or display of clothing, signs, flags, emblems and insignia, and		15 16
(c) the distribution or dissemination of matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for or severe ridicule of—		17 18 19
(i) a person on the ground the person has, or does not have, a religious belief or affiliation, or		20 21
(ii) a person on the ground the person engages, or does not engage, in religious activity, or		22 23
(iii) a group of persons on the ground the members of the group have, or do not have, a religious belief or affiliation, or		24 25
(iv) a group of persons on the ground the members of the group engage, or do not engage, in religious activity.		26 27
49ZE Religious vilification unlawful		28
(1) It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for or severe ridicule of—		29 30
(a) a person on the ground the person—		31
(i) has, or does not have, a religious belief or affiliation, or		32
(ii) engages, or does not engage, in religious activity, or		33
(b) a group of persons on the ground the members of the group—		34
(i) have, or do not have, a religious belief or affiliation, or		35
(ii) engage, or do not engage, in religious activity.		36
(2) Nothing in this section renders unlawful—		37
(a) a fair report of a public act referred to in subsection (1), or		38
(b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege, whether under the <i>Defamation Act 2005</i> or otherwise, in proceedings for defamation, or		39 40 41 42
(c) a public act, done reasonably and in good faith, for academic, artistic, scientific, research or religious discussion or instruction purposes or for		43 44

other purposes in the public interest, including discussion or debate
about and expositions of an act or matter.

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