
c2023-056D
PHON--Pauline Hanson's One Nation

LEGISLATIVE COUNCIL

Anti-Discrimination Amendment (Religious Vilification) Bill 2023

First print

Proposed amendments

- No. 1 **Discrimination on grounds of religious belief or practice**
Page 3, line 5. Omit “**Religious vilification**”. Insert instead “**Discrimination on grounds of religious belief, affiliation or activity**”.
- No. 2 **Discrimination on grounds of religious belief or practice**
Page 3, before line 6. Insert—
- Division 1 General**
- No. 3 **Discrimination on grounds of religious belief or affiliation or religious activity**
Page 3, proposed section 49ZD, before line 8. Insert—
genuinely believes, in relation to a person, means the person’s holding of the religious belief is sincere and is not fictitious, capricious or an artifice.
- No. 4 **Discrimination on grounds of religious belief or affiliation or religious activity**
Page 3, proposed section 49ZD, after line 27. Insert—
religious activity—
(a) includes the following—
(i) engaging in religious activity, including an activity motivated by a religious belief,
(ii) not engaging in religious activity, including an activity motivated by a religious belief, but
(b) does not include engaging in any activity that would constitute an offence punishable by imprisonment under the law of New South Wales or the Commonwealth.
religious beliefs or affiliations includes the following—
(a) having a religious conviction, belief, opinion or affiliation,
(b) not having any religious conviction, belief, opinion or affiliation.
religious ethos organisation means—
(a) a private educational authority that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion, or
(b) a charity registered with the Australian Charities and Not-for-profits Commission under the *Australian Charities and Not-for-profits*

Commission Act 2012 of the Commonwealth that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion, or

No. 5 **Discrimination on grounds of religious belief or affiliation or religious activity**

Page 3. Insert after line 27—

49ZDA Determining when a belief is held

For the purposes of this Act, a person holds a religious belief, inclusive of the person's beliefs as to the actions, refusals, omissions or expressions that are motivated or required by, conflict with, accord or are consistent with, that belief, if the person genuinely believes the belief.

49ZDB Religious belief, affiliation or activity includes past, future and presumed religious belief, affiliation or activity

- (1) A reference in this part to a person's religious belief is a reference to a religious belief—
 - (a) that the person holds, or
 - (b) that the person is thought to hold, whether or not the person in fact holds the religious belief, or
 - (c) that the person held in the past, or is thought to have held in the past, whether or not the person in fact held the religious belief, or
 - (d) that the person will hold in the future or that it is thought the person will hold in the future, whether or not the person in fact will hold the religious belief.
- (2) A reference in this part to a person's religious affiliation is a reference to a religious affiliation—
 - (a) that the person has, or
 - (b) that the person is thought to have, whether or not the person in fact has the religious affiliation, or
 - (c) that the person had in the past, or is thought to have had in the past, whether or not the person in fact had the religious affiliation, or
 - (d) that the person will have in the future, whether or not the person in fact will have the religious affiliation.
- (3) A reference in this part to a person's religious activity is a reference to a religious activity—
 - (a) that the person engages in, does not engage in or refuses to engage in, or
 - (b) that the person is thought to engage in, thought not to engage in, or refuses to engage in, whether or not the person in fact engages in the religious activity, or
 - (c) that the person engaged in in the past or is thought to have engaged in in the past, or that the person did not engage in in the past or is thought to have not engaged in in the past, or that the person refused to engage in in the past or is thought to have refused to engage in in the past, whether or not the person in fact engaged in, did not engage in or refused to engage in the religious activity, or
 - (d) that a person will engage in in the future or that it is thought that the person will engage in in the future, or that the person did not engage in in the past or that it is thought that the person will not engage in in the future, or that the person will refuse to engage in in the future or that it is thought that the person will refuse to engage in in the future, whether

or not the person in fact will engage in, not engage in or refuse to engage in the religious activity.

49ZDC What constitutes discrimination on grounds of religious beliefs, affiliations or activity

- (1) A person (*the perpetrator*) discriminates against another person (*the aggrieved person*) on the grounds of religious beliefs, affiliations or activity if the perpetrator—
 - (a) on the ground of the aggrieved person's religious beliefs or affiliations or religious activity, or the religious beliefs, affiliations or religious activity of a relative or associate of the aggrieved person, treats the aggrieved person less favourably than in the same circumstances, or in circumstances that are not materially different, the perpetrator treats or would treat a person—
 - (i) with different religious beliefs, or
 - (ii) who has such a relative or associate with different religious beliefs, or
 - (b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons with different religious or affiliations or with different religious activity, or who have such a relative or associate who does not have the same religious beliefs, or religious activity, comply or are able to comply, being a requirement—
 - (i) which is not reasonable having regard to the circumstances of the case, and
 - (ii) with which the aggrieved person does not or is not able to comply.
- (2) For subsection (1)(a), something is done on the ground of a person's religious beliefs or affiliations or the person's religious activity if it is done on the ground of—
 - (a) the person's religious beliefs or affiliations or religious activity, or
 - (b) a characteristic that appertains generally to persons with those religious beliefs or affiliations or who engage in that religious activity, or
 - (c) a characteristic that is generally imputed to persons with those religious beliefs or affiliations or who engage in that religious activity.

49ZDD Religious ethos organisations taken not to discriminate in certain circumstances

- (1) For the purposes of this part, a religious ethos organisation is taken not to discriminate against another person on the ground of the person's religious beliefs or religious activity by engaging in conduct if the organisation genuinely believes the conduct—
 - (a) is consistent with the doctrines, tenets, beliefs or teachings of the religion of the organisation, or
 - (b) is required because of the religious susceptibilities of the adherents of the religion of the organisation, or
 - (c) furthers or aids the organisation in acting in accordance with the doctrines, tenets, beliefs or teachings of the religion of the organisation.
- (2) Without limiting subsection (1), conduct referred to in that subsection includes giving preference to persons of the same religion as the religion of the religious ethos organisation.
- (3) Nothing in this section, or any provision of this Act that refers to a religious ethos organisation, affects the operation of section 56.

-
- (4) To avoid doubt, this section applies despite any other provision in this part.

Division 2 Discrimination in work

49ZDE Discrimination against applicants and employees

- (1) It is unlawful for an employer to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—
- (a) in the arrangements the employer makes for the purpose of determining who should be offered employment, or
 - (b) in determining who should be offered employment, or
 - (c) in the terms on which employment is offered.
- (2) It is unlawful for an employer to discriminate against an employee on the grounds of the person's religious beliefs or affiliations or religious activity—
- (a) in the terms or conditions of employment that are afforded to the employee, or
 - (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment, or
 - (c) by dismissing the employee or subjecting the employee to any other detriment.
- (3) Subsections (1) and (2) do not apply to employment—
- (a) for the purposes of a private household, or
 - (b) if the number of persons employed by the employer, disregarding any persons employed within the employer's private household, does not exceed 5, or
 - (c) by a private educational authority.
- (4) For the purposes of subsection (3)(b), a corporation is regarded as the employer of the employees of any other corporation which, with respect to the firstmentioned corporation, is a related body corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

49ZDF Discrimination against commission agents

- (1) It is unlawful for a principal to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—
- (a) in the arrangements the principal makes for the purpose of determining who should be engaged as a commission agent, or
 - (b) in determining who should be engaged as a commission agent, or
 - (c) in the terms on which the principal engages the person as a commission agent.
- (2) It is unlawful for a principal to discriminate against a commission agent on the grounds of the person's religious beliefs or affiliations or religious activity—
- (a) in the terms or conditions that are afforded to the commission agent, or
 - (b) by denying the commission agent access, or limiting the commission agent's access, to opportunities for promotion, transfer or training, or to any other benefits associated with the person's position as a commission agent, or
 - (c) by terminating the commission agent's engagement or subjecting the commission agent to any other detriment.

49ZDG Discrimination against contract workers

It is unlawful for a principal to discriminate against a contract worker on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) in the terms on which the contract worker is allowed to work, or
- (b) by not allowing the contract worker to work or continue to work, or
- (c) by denying the contract worker access, or limiting the contract worker's access, to any benefit associated with the work performed by the contract worker, or
- (d) by subjecting the contract worker to any other detriment.

49ZDH Partnerships

(1) It is unlawful for a firm consisting of 6 or more partners, or for any one or more of 6 or more persons proposing to form themselves into a partnership, to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) in the arrangements made for the purpose of determining who should be offered a position as partner in the firm, or
- (b) in determining who should be offered a position as partner in the firm, or
- (c) in the terms on which the person is offered a position as partner in the firm.

(2) It is unlawful for a firm consisting of 6 or more partners to discriminate against a partner on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) by denying the partner access, or limiting the partner's access, to any benefit arising from membership of the firm, or
- (b) by expelling the partner from the firm, or
- (c) by subjecting the partner to any other detriment.

49ZDI Discrimination by local government councillors

It is unlawful for any member or members of a council of a local government area when acting, whether alone or together, in the course of the member's or members' official functions to discriminate against another member of the council on the grounds of the person's religious beliefs or affiliations or religious activity.

49ZDJ Industrial organisations

(1) It is unlawful for an industrial organisation to discriminate on the grounds of the person's religious beliefs, affiliations or practices against a person who is not a member of the industrial organisation—

- (a) by refusing or failing to accept the person's application for membership, or
- (b) in the terms on which it is prepared to admit the person to membership.

(2) It is unlawful for an industrial organisation to discriminate against a member of the organisation on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) by denying the member access, or limiting the member's access, to any benefit provided by the organisation, or
- (b) by depriving the member of membership or varying the terms of the person's membership, or
- (c) by subjecting the member to any other detriment.

49ZDK Qualifying bodies

It is unlawful for an authority or a body which is empowered to confer, renew or extend an authorisation or a qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) by refusing or failing to confer, renew or extend the authorisation or qualification, or
- (b) in the terms on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification, or
- (c) by withdrawing the authorisation or qualification or varying the terms or conditions on which it is held.

49ZDL Employment agencies

It is unlawful for an employment agency to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—

- (a) by refusing to provide the person with any of its services, or
- (b) in the terms on which it offers to provide the person with any of its services, or
- (c) in the manner in which it provides the person with any of its services.

Division 3 Discrimination in other areas

49ZDM Education

- (1) It is unlawful for an educational authority to discriminate against a person on the grounds of the person's religious beliefs or affiliations or religious activity—
 - (a) by refusing or failing to accept the person's application for admission as a student, or
 - (b) in the terms on which it is prepared to admit the person as a student.
- (2) It is unlawful for an educational authority to discriminate against a student on the grounds of the student's religious beliefs or affiliations or religious practices—
 - (a) by denying the student access, or limiting the student's access, to any benefit provided by the educational authority, or
 - (b) by expelling the student or subjecting the student to any other detriment.
- (3) Nothing in this section applies to or in respect of a private educational authority.

49ZDN Provision of goods and services

It is unlawful for a person who provides, whether or not for payment, goods or services to discriminate against another person on the grounds of the person's religious beliefs, affiliations or religious activity—

- (a) by refusing to provide the person with those goods or services, or
- (b) in the terms on which the other person is provided with those goods or services.

49ZDO Accommodation

- (1) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the grounds of the person's religious beliefs or affiliations or religious activity—

-
- (a) by refusing the person's application for accommodation, or
 - (b) in the terms on which the principal or agent offers the person accommodation, or
 - (c) by deferring the person's application for accommodation or giving the person a lower order of precedence in any list of applicants for that accommodation.
- (2) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the grounds of the person's religious beliefs or affiliations or religious activity—
- (a) by denying the person access, or limiting the person's access, to any benefit associated with accommodation occupied by the person, or
 - (b) by evicting the person or subjecting the person to any other detriment.
- (3) Nothing in this section applies to or in respect of the provision of accommodation in premises if—
- (a) the person who provides or proposes to provide the accommodation or a near relative of that person resides, and intends to continue to reside, in those premises, and
 - (b) the accommodation provided in those premises is for no more than 6 persons.

49ZDP Registered clubs

- (1) It is unlawful for a registered club to discriminate on the grounds of the person's religious beliefs or affiliations or religious activity against a person who is not a member of the registered club—
- (a) by refusing or failing to accept the person's application for membership of the club, or
 - (b) in the terms on which it is prepared to admit the person to membership of the club.
- (2) It is unlawful for a registered club to discriminate on the grounds of the person's religious beliefs or affiliations or religious practices against a member of the registered club—
- (a) by denying the member access, or limiting the members' access, to any benefit provided by the club, or
 - (b) by depriving the member of membership or varying the terms of the person's membership, or
 - (c) by subjecting the member to any other detriment.

Division 4 Religious vilification