

Inquiry into the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020  
Answer to Question on Notice - public hearing 23 October 2020

We provide the following response to the Question on Notice. PIAC was asked by Mr Greenwich to express our view on ‘the way in which the bill could potentially allow for religious activities which would be unlawful or potentially prohibited by a public health order to occur?’

It seems likely that under s22Z of the Bill, both ‘religious ethos organisations’ and individuals could challenge a decision of the Minister in making a Public Health Order, as a function being performed under a State law.

It could be argued, for example, that an order closing places of worship or limiting the ability of people to gather constitutes discrimination on the basis of religious activity (taking part in religious worship), either as a form of direct discrimination if the order amounts to less favourable treatment when compared to other people not engaging in religious worship; or indirect discrimination if the order imposes a requirement or condition on people with a religious belief with which a substantially higher proportion of persons who do not have a religious belief could comply.

Whether such challenge would be successful would depend on a range of factors, including the precise terms of the order, its reasonableness, and the terms and scope of orders limiting other activities.

We hope this assists the Committee with its consideration of the Bill.

Kind regards,

Jonathon

**Jonathon Hunyor**

Chief Executive Officer | Public Interest Advocacy Centre Ltd