



# RELIGIOUS DISCRIMINATION BILL SUBMISSION TOOLKIT:

MAKING A SUBMISSION TO THE ATTORNEY-GENERAL'S DEPARTMENT  
CONSULTATION ON THE SECOND EXPOSURE DRAFT OF THE RELIGIOUS  
DISCRIMINATION BILL 2019

21 January 2019

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# MAKING A SUBMISSION ON THE RELIGIOUS DISCRIMINATION BILL

## 1. INTRODUCTION

This toolkit is designed to help you make your own submission on the second exposure draft of the Religious Discrimination Bill 2019 (the **Bill**), which was released by the Government on 10 December 2019.

The text of the Bill and its explanatory notes are available [here](#).

The Bill is proposed alongside two other bills, which have not changed materially since the first exposure drafts. They are the Human Rights Legislation Amendment (Freedom of Religion) Bill 2019 and Human Rights Legislation Amendment (Freedom of Religion) Bill 2019. You can read our first submission with our concerns regarding these bills [here](#).

This guide includes a simplified legal summary of the Bill. It does not constitute legal advice nor is it comprehensive. It is intended to give you a general idea of the effect of the proposed law. As we have tried to convey complex concepts into simple language, this means legal nuances can be lost. If you are preparing a technical or legal submission on the Bill, you should use the specific language of the Bill and its explanatory note.

## 2. PRACTICAL TIPS FOR MAKING A SUBMISSION

When making a submission, remember:

- Keep it short, sharp and polite.
- If your submission is long, put a summary at the front with a list of your recommendations.
- Include case studies or scenarios showing how the Bill will impact on you, your organisation or the people who matter to you. This is crucial.
- Stick to what you know and speak from your perspective. A personal submission telling your story can be just as powerful as a technical submission. For example:
  - Have you been refused healthcare based on a doctor, nurse, pharmacist or psychologist's religious belief?
  - Have you experienced judgemental comments when receiving healthcare because of someone's religious views about women, people with disabilities, LGBTIQ+ people, single parents, or people with different beliefs?
  - Have you had someone say something discriminatory to you at work, school or in the provision of services either from their religious belief or about religion?

If you feel able and willing, tell your story.

- Make your submission by **31 January 2020** by emailing it to [ForConsultation@ag.gov.au](mailto:ForConsultation@ag.gov.au). Indicate whether you want your submission to remain confidential or be published anonymously, or if you are happy for the submission to be made public.

### 3. WHAT DOES THE RELIGIOUS DISCRIMINATION BILL DO?

The Religious Discrimination Bill 2019 proposes to provide protection against discrimination for people of faith and without faith in certain areas of public life, such as employment, education and in the provision of goods and services.

The Bill provides protection on the grounds of 'religious belief or activity'. This is defined as:

- holding a religious belief or engaging in a lawful religious activity, or
- *not* holding a religious belief or not engaging in (or refusing to engage in) lawful religious activity.<sup>1</sup>

The concept of a 'religious belief' is not further defined. It is intended to capture beliefs associated with major faith traditions (such as Buddhism, Christianity, Hinduism, Islam or Judaism), in addition to the beliefs of small and emerging faith traditions.<sup>2</sup> It is also intended to capture the beliefs of different denominations or sects within a particular religion.<sup>3</sup>

Generally speaking, and subject to certain exemptions, discrimination means:

- treating someone less favourably on the ground of religious belief or activity (*direct discrimination*); or
- imposing an apparently neutral condition, requirement or practice (e.g. a policy or rule) which disadvantages people of faith or no faith and which is *not* reasonable in the circumstances (*indirect discrimination*).<sup>4</sup>

Unfortunately, the Bill includes a number of radical and unconventional provisions which depart from standard discrimination protections on other grounds such as race, sex and disability.

### 4. KEY THEMES

All Australians – women, people with disabilities, LGBTIQ+ people, people of faith and without faith, single parents, de facto couples, divorced people, and others – could be adversely affected by this Bill.

Here are the 3 key issues:

- **Enabling discrimination.** The Bill removes discrimination protections for LGBTIQ+ people, women, people with disabilities, and others when people make certain statements which are discriminatory based in religion or about religion. Statements such as 'homosexuality is sinful', 'women must submit to their husbands', 'disability can be cured by prayer' and 'a child is harmed by having unmarried parents' may be protected under discrimination laws even when said by a boss, colleague, teacher, health professional or service provider. Watch our [video](#) to see how this operates. Large private sector employers and professional bodies will find it harder to enforce universal standards of appropriate conduct across their workplaces and professions.
- **Privileging religious views over patient health needs.** The Bill makes it harder for health sector employers and professional bodies to ensure doctors, nurses, midwives, pharmacists, and

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<sup>1</sup> Religious Discrimination Bill 2019 (Bill), s 5 (definition of 'religious belief or activity').

<sup>2</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [70].

<sup>3</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [73].

<sup>4</sup> Bill, ss 7-8.

psychologists do not refuse treatment to people on religious grounds. Australians will find it harder to access non-judgemental healthcare, such as sexual health, family planning, fertility, mental health and transgender health services, wherever they live. Professional standards, such as those that require objecting health professionals to refer patients to alternative health professionals who will treat them, may come under challenge.

- **Entrenching double standards in law.** Religious organisations will be allowed to discriminate against others with different beliefs or no belief, even when providing publicly funded services. Corporations associated with religious people will be given discrimination protections. Meanwhile, religious schools will continue to be able to discriminate on the basis of sexuality, gender identity, marital or relationship status, or pregnancy under the Sex Discrimination Act because that Act is unaffected. A Freedom of Religion Commissioner will be established, while LGBTIQ+ people will remain without their own.

When writing your submission, you wish to focus on any one or more of the above themes.

## 5. IN DETAIL

This section is intended for persons and organisations who wish to make further detailed submissions on the Bill.

We made a number of criticisms of the Bill in our first [submission](#), many of which remain unaddressed in the second exposure draft. We have not repeated those criticisms in this toolkit. Instead, we have focussed on what has changed and new issues emerging from this draft. Make sure you read our first submission if you want a complete account of our analysis on the Bill.

### ENABLING DISCRIMINATION: PROVISIONS RELATING TO 'STATEMENTS OF BELIEF'

#### (a) Removing existing discrimination protections

	REMOVING EXISTING DISCRIMINATION PROTECTIONS
WHAT DOES THE BILL DO?	<p>Australians will lose their existing discrimination protections when others make offensive, derogatory or harmful statements based on their religious beliefs or about religion, including at work, school and in the provision of goods and services (such as in hospitals, shops and other public services).</p> <p>This will affect all Australians, including women, LGBTIQ+ people, people with disabilities or with lived experiences of mental health issues, people of minority faith, divorced people, de factos and single parents.</p> <p>Watch our <a href="#">video</a> to see the kinds of statements which may be protected.</p> <p>Examples of statements which may be protected include:</p> <ul style="list-style-type: none"> <li>• a boss saying to his employee that women must learn to stay silent<sup>5</sup> or that homosexuality is sinful</li> <li>• a teacher telling a student that children born out of wedlock are the product of sin</li> <li>• a dentist telling his patient that her schizophrenia is caused by evil spirits and that spiritual healing can cure her<sup>6</sup></li> </ul>

<sup>5</sup> Ephesians 5: 22-23; 1 Timothy 2: 11-12.

<sup>6</sup> [Dr Paul Gardner \[2007\] DPBV 1](#).

	<ul style="list-style-type: none"> <li>• a taxi driver telling a person with a guide or assistance dog that their dog is unclean</li> <li>• a doctor telling a trans patient that God made men and women and attempts to affirm their gender are wrong.<sup>7</sup></li> </ul>
<b>WHERE DOES IT DO IT?</b>	<p>Subsection 42(1) says that a ‘statement of belief’ does not constitute discrimination for the purpose of any anti-discrimination law and cannot contravene offensive conduct provisions in the Tasmanian <i>Anti-Discrimination Act</i>. It allows the Governor General (on the advice of a relevant Minister) to prescribe additional laws, which would be overridden by this provision.</p> <p>‘Statements of belief’ are written or spoken statements made in good faith, either of a religious belief, or by a non-believer relating to the fact of not holding a belief (s 5).</p> <p>However, statements which are malicious, which are likely to harass, threaten, seriously intimidate or vilify (meaning, incite hatred or violence), or which encourage serious offences, are not protected (s 42(2)).</p>
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>The old section 41 is now section 42.</p> <p>Key changes are:</p> <ul style="list-style-type: none"> <li>• The Bill clarifies that only written and spoken statements (and not refusals of service) are captured. That means that it may be lawful for someone to provide you a service with a discriminatory comment on the side.</li> <li>• Statements of belief which threaten or seriously intimidate others are now excluded from protection. This means that intimidation – provided it’s not <i>serious</i> – now appears to be protected.</li> <li>• A broader range of statements of belief are now protected because the test for what constitutes a religious doctrine, tenet, belief or teaching has been relaxed (see the ‘It Just Takes Two’ test at section 5(e) below).</li> </ul> <p>See pages 19-21 of our <a href="#">submission</a> on the first exposure draft of the Religious Discrimination Bill for more information.</p>
<b>WHAT SHOULD HAPPEN?</b>	<p>Section 42 should be removed. You don’t need to allow discrimination against others to protect people of faith.</p> <p>Conventional discrimination protections would protect the ability for people to express their faith by requiring any restrictions on religious expression at work, school and in the provision of goods and services to be reasonable.</p>

## (b) ‘No Consequences for Conduct’ clauses

	<b>‘NO CONSEQUENCES FOR CONDUCT’ CLAUSES</b>
<b>WHAT DOES THE BILL DO?</b>	<p>Large private sector employers, and bodies conferring professional, trade or occupational qualifications and licences, will find it harder to enforce rules regarding appropriate standards of behaviour where certain statements are made by their employees or members outside professional contexts.</p> <p>The proposed rules will:</p> <ul style="list-style-type: none"> <li>• hamper the ability of professional bodies to respond appropriately when medical, legal, financial and other professionals make statements based on religion or</li> </ul>

<sup>7</sup> Gender Identity Initial Principles of Engagement (as adopted by the Anglican Synod on 23 October 2018, Resolution No 49/18), paras. 9.1.1(d) and 9.1.5(d)).

	<p>about religion outside of work contexts which erode public trust in their profession; and</p> <ul style="list-style-type: none"> <li>hinder the ability large private employers to ensure their workplaces are inclusive and safe places for all employees, and a good place to do business or access services for clients and customers.</li> </ul> <p>At the same time, these provisions discriminate against employees in small organisations or the public sector, or who are not religious, by failing to offer them the same protections. For example:</p> <ul style="list-style-type: none"> <li>A large private employer may not be able to discipline an employee, or terminate a contract with a person, who tweets on the weekend that bushfires are God's punishment for gay marriage and/or abortion, even if that person has a prominent public-facing role in the organisation.</li> <li>A medical or psychologist professional board may not be able to take action on a complaint about the fitness of a doctor or psychologist to practice, where that doctor or psychologist tweets at night that they believe gay people are sexually broken and should pray for healing.</li> </ul>
<b>WHERE DOES IT DO IT?</b>	<p>Subsection 8(3) says that a private sector employer with revenues of at least \$50 million cannot impose a rule restricting or preventing an employee from making a 'statement of belief' other than in the course of their employment unless it is necessary to avoid 'unjustifiable financial hardship' to the employer. Subsection 32(6) also prevents such a rule being an 'inherent requirement' of the job.</p> <p>Subsection 8(4) says that a qualifying body cannot impose a rule restricting or preventing a person from making a 'statement of belief' other than in the course of their profession, trade, or occupation, unless it is an 'essential requirement' of the profession, trade or occupation. A 'qualifying body' means any authority or body empowered to confer, renew, revoke, vary or withdraw professional, trade or occupational qualifications or authorisations (e.g. medical boards, legal admission boards, universities/TAFEs etc) (s 5).</p> <p>'Statements of belief' are written or spoken statements made in good faith, either of a religious belief, or by a non-believer relating to the fact of not holding a belief (s 5). However, statements which are malicious, which are likely to harass, threaten, seriously intimidate or vilify (meaning, incite hatred or violence), or which encourage serious offences, are not protected (s 8(5)).</p>
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>The 'No Consequences for Conduct' provisions have been extended to professional qualifying bodies, in addition to large private sector employers. They are now contained in subsections 8(3)-(5).</p> <p>The table in 5(a) above explains changes made to the concept of a 'statement of belief'. Otherwise, these provisions continue to have the same issues as before, including:</p> <ul style="list-style-type: none"> <li>They ignore harm caused to an employer which is not financial, such as reputational harm or harm caused to staff, customers and clients.</li> <li>They discriminate by affording some employees and professionals a greater level of protection than others (e.g. public sector workers or people who express personal views not based in religion).</li> </ul> <p>See pages 15-18 of our <a href="#">submission</a> on the first exposure draft of the Religious Discrimination Bill for more information.</p>

<b>WHAT SHOULD HAPPEN?</b>	Subsections 8(3)-(5) and 32(6) should be removed. Conventional discrimination protections would protect the ability for people to express their faith by requiring any restrictions on religious expression, especially outside work contexts, to be reasonable.
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## PRIVILEGING RELIGIOUS VIEWS OVER PATIENT HEALTH NEEDS

### (c) Compromising access to healthcare

	COMPROMISING ACCESS TO HEALTHCARE
<b>WHAT DOES THE BILL DO?</b>	<p>Doctors, nurses, midwives, pharmacists and psychologists will be given greater protection to refuse treatment to patients based on religious grounds.</p> <p>Health sector employers and professional bodies will find it harder to impose policies and standards requiring doctors, nurses, midwives, pharmacists and psychologists to treat all patients according to their health needs. It will also make it harder for employers and professional bodies to impose requirements, such as a requirement to refer, when a health professional objects to providing treatment on religious grounds.</p> <p>This applies to all types of health services not just abortion and euthanasia (where existing state and territory laws already allow conscientious objection).</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• A doctor or nurse could refuse to comply with a clinic policy that free contraception is offered to any patient who requests it.</li> <li>• A doctor employed by a public hospital could refuse to provide any sexual health testing because they disagree with sex outside marriage.</li> <li>• An employed pharmacist could seek to 'opt out' of dispensing any hormone medication because they disagree with dispensing hormones for trans patients.</li> <li>• A psychologist could refuse to refer a woman seeking access to reproductive services, such as IVF or abortion, because of religious beliefs about when life begins.</li> </ul>
<b>WHERE DOES IT DO IT?</b>	<p>Subsection 8(6) provides that, where state or territory laws allow conscientious objection in healthcare (which is mostly in abortion and euthanasia contexts), health sector employers and professional bodies must not impose rules inconsistent with those laws.</p> <p>In all other cases, subsection 8(7) provides that health sector employers and professional bodies must not impose a rule (such as a policy or standard):</p> <ul style="list-style-type: none"> <li>• which restricts or prevents a doctor, nurse, midwife, pharmacist or psychologist from refusing to provide or participate in a particular kind of health service on religious grounds,</li> <li>• <i>unless</i> it is necessary to avoid an 'unjustified adverse impact' to the service or the patient's health.</li> </ul> <p>Subsection 32(7) also prohibits a health sector employer or professional body from imposing such rules as an 'inherent requirement' of the role.</p>
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>The old subsections 8(5)-(6) and 31(7) are now subsections 8(6)-(7) and 32(7).</p> <p>These provisions now apply to a more limited range of health professionals, being doctors, nurses, midwives, pharmacists and psychologists. But the problem remains that these are the health professionals responsible for most essential healthcare.</p>



	<p>These provisions now also extend to include health services that these professionals <i>participate</i> in, not only services that they provide themselves. So a doctor, nurse, pharmacist or psychologist could even refuse to refer a patient to someone else who will treat them, or give them information about a treatment which is available that they object to.</p> <p>The provisions now include a clarifying note which suggest that a health professional cannot refuse treatment to particular types of people (such as single women or trans people), only particular types of health services. But the problem is:</p> <ul style="list-style-type: none"> <li>• health professionals may avoid these new protections by simply refusing to provide health services (such as sexual health or fertility services, or psychological services) to everyone because they object to providing health services to some people;</li> <li>• some health services <i>are</i> for particular types of people, such as gender affirming healthcare or psychological services for persons who are coming out as gay, lesbian or bisexual. So refusing to provide particular types of services may just mean refusing to provide services in a non-judgemental way to everyone, given some kinds of treatment are indistinguishable from the kind of person who needs it;</li> <li>• it is not clear what a 'particular type of health service' means. For example, if a pharmacist refuses to dispense a prescription for hormones to a trans patient, must the pharmacist also refuse to dispense a prescription for hormones to a woman post-menopause? If a doctor refuses to prescribe the pill to a woman, must the doctor also refuse to prescribe all medications to another person?</li> </ul> <p>Otherwise, these provisions continue to have the same issues as before. Doctors, nurses, midwives, pharmacists and psychologists may still be allowed to refuse treatment even when it impacts adversely on a patient's health, and prospective employers will be unable to ask any prospective employees whether any religious objections will make them unable or unwilling to do the job.</p> <p>See pages 6-14 of our <a href="#">submission</a> on the first exposure draft of the Religious Discrimination Bill for more information.</p>
WHAT SHOULD HAPPEN?	<p>Subsections 8(6)-(7) and 32(7) should be removed. Conventional discrimination protections would protect the ability for doctors, nurses, midwives, pharmacists and psychologists to practice in accordance with their faith, but without prioritising religious views over a patient's right to access healthcare. Laws should never authorise adverse impacts on a patient's health or the refusal of treatment to patients without safeguards.</p>

## ENTRENCHING DOUBLE STANDARDS IN LAW

### (d) Double standards in education, accommodation and service delivery

	DOUBLE STANDARDS IN EDUCATION, ACCOMODATION AND SERVICE DELIVERY
WHAT DOES THE BILL DO?	<p>Faith-based schools, charities and other organisations will remain able to discriminate against others with different or no beliefs.</p> <p>This includes discrimination against people with different or no beliefs by faith-based:</p> <ul style="list-style-type: none"> <li>• hospitals or aged care facilities in employment;</li> <li>• charities and other primarily non-commercial bodies in employment and in the delivery of goods and services;</li> </ul>

	<ul style="list-style-type: none"> <li>schools, universities or colleges in employment and against students;</li> <li>providers of camps or conferences sites in accommodation.</li> </ul> <p>For example, it will remain lawful to fire or refuse to hire a nurse employed in an aged care facility or hospital because they do not share the same faith as their employer.</p> <p>People of minority faith will be among the most at risk because of these provisions.</p>
<b>WHERE DOES IT DO IT?</b>	Sections 11, 32(8)-(11) and 33(2)-(5) contain exemptions which allow faith-based organisations to discriminate against others with different or no beliefs.
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>The old section 10 is now section 11. Sections 32(8)-(11) and 33(2)-(5) are new.</p> <p>Exemptions for faith-based organisations have now expanded to allow discrimination against others of different or no belief by faith-based:</p> <ul style="list-style-type: none"> <li>charities in the delivery of services, even publicly-funded services;</li> <li>aged care facilities and hospitals in the area of employment;</li> <li>providers of camps and conference sites in accommodation.</li> </ul> <p>Among the issues with these provisions include:</p> <ul style="list-style-type: none"> <li>subsection 11(5) only refers to 'aged care facilities', not all providers of "Commonwealth-funded aged care" (as defined in the <i>Sex Discrimination Act 1984</i>). This means that faith-based providers of Commonwealth-funded <i>home care</i> may be able to discriminate against people with different or no beliefs in receipt of that care;</li> <li>providers of Government funded services, such as those providing accommodation for the homeless, domestic violence services and services for people with disabilities, may be permitted to discriminate against individuals with different or no beliefs in receipt of those services.</li> </ul> <p>These exemptions still do not adequately protect individuals with different and no beliefs who are already employed, enrolled or interact with such organisations or rely on government-funded services delivered by these organisations.</p> <p>See pages 21-26 of our <a href="#">submission</a> on the first exposure draft of the Religious Discrimination Bill for more information.</p>
<b>WHAT SHOULD HAPPEN?</b>	Any religious exemptions must include better balancing mechanisms to protect the rights of individuals who are employed, enrolled or interact with such organisations or who rely on government-funded services delivered by these organisations. This is now all the more important because the test for what constitutes a religious doctrine, tenet, belief or teaching has been relaxed (see the 'It Just Takes Two' test at section 5(e) below).

### (e) 'It Just Takes Two' test

	<b>'IT JUST TAKES TWO' TEST</b>
<b>WHAT DOES THE BILL DO?</b>	<p>This Bill lowers the bar on what is considered a religious doctrine, tenet, belief or teaching, providing special protection to much more extreme and unorthodox beliefs.</p> <p>Schools, charities and other organisations who wish to discriminate against others with different or no beliefs, or people who wish to obtain immunity under anti-discrimination laws by making statements based on their beliefs, will be able to do so by pointing to doctrines, tenets, beliefs or teachings which one other person reasonably considers to be part of their particular brand of faith.</p>

	<p>Believe that immunisation is against God's plan? Believe that the earth is flat? Believe that the separation of different races of people is God's will?</p> <p>It will just take two people to establish a religious requirement exists and deserves protection.</p>
<b>WHERE DOES IT DO IT?</b>	<p>The definition of a 'statement of belief' (s 5) and exemptions provided to religious bodies (ss 11, 32(8) and 33(2)) require demonstrating that a statement, or conduct which discriminates against others of different or no belief, is based on doctrines, tenets, beliefs or teachings that 'a person of the same religion ... could reasonably consider to be in accordance with the doctrines, tenets, beliefs or teachings of that religion'.</p> <p>The explanatory notes explain that the intention of this test is to protect the religious beliefs or activities of different denominations or sects within a particular religion.<sup>8</sup> But with the absence of any definition of a 'religion', and with the intention to include emerging and new faith traditions,<sup>9</sup> what might qualify as a religious belief or activity is extremely broad, uncertain and highly subjective.</p>
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>This legal test is new and has no legal precedent.</p> <p>It will mean people and faith-based organisations will not need to show conformity with any established doctrines, tenets, beliefs or teachings of any established faith tradition in order to justify discrimination against others with different or no beliefs, or to make discriminatory 'statements of belief'.</p> <p>The legal test is entirely unorthodox and is highly subjective. The person who shares your faith does not actually have to be a reasonable person, they only have to reasonably consider that the doctrines, tenets, beliefs or teachings form part of your particular shared faith. That is, a person who believes what you believe is the arbiter of whether you are correct in what you say your particular beliefs entail.</p>
<b>WHAT SHOULD HAPPEN?</b>	<p>Redraft all provisions which contain the 'It Just Takes Two' test. If people are to be afforded protection for whatever religious doctrines, tenets, beliefs or teachings they believe in, the Bill must ensure that, consistent with article 18(3) of the International Covenant on Civil and Political Rights, no conduct is protected, authorised or permitted where it is contrary to '<i>public safety, order, health, or morals or the fundamental rights and freedoms of others</i>'.</p>

## (f) Protecting corporations against discrimination

	PROTECTING CORPORATIONS AGAINST DISCRIMINATION
<b>WHAT DOES THE BILL DO?</b>	<p>Corporations will be able to sue goods, services, facilities and accommodation providers, owners of premises used by the public, and clubs and sporting bodies, who deny them things based on their association with religious individuals. These provisions will silence the ability of ordinary Australians to boycott in protest.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>a sporting code could sue a sponsor who refused to supply it goods and services while it continued to employ a sports star expressing discriminatory views based on their religious beliefs;</li> </ul>

<sup>8</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [73].

<sup>9</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [71].

	<ul style="list-style-type: none"> <li>a conference provider could sue a hotel if it refused accommodation to a prominent individual speaking at the conference with views in favour of racial segregation based on religion;</li> <li>a company could sue a printer who refused to print pamphlets authorised by its managing director that 'abortion is murder';</li> <li>a charity could sue the Commonwealth for cancelling a funding contract because its CEO made public comments that women are commanded to cover themselves in order to avoid unwanted sexual advances.</li> </ul>
<b>WHERE DOES IT DO IT?</b>	Section 9 extends discrimination protections to 'persons' associated with individuals holding or engaging in religious beliefs or activities. 'Person' can include a natural or legal person (i.e. a company), <sup>10</sup> and 'association' is not defined but is intended to include personal, business, employment and other forms of relationship between a company and individual. <sup>11</sup>
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	<p>This provision is new.</p> <p>The definition of a 'person' which includes legal entities has been removed, but legal entities may still receive protection under this Bill under ordinary principles of statutory interpretation.<sup>12</sup></p>
<b>WHAT SHOULD HAPPEN?</b>	<p>Human rights laws should protect humans.</p> <p>If 'associates' are to be protected:</p> <ul style="list-style-type: none"> <li>they should be protected equally, including under the <i>Sex Discrimination Act 1984</i> (Cth) where they are currently not protected;</li> <li>they should be limited to natural persons who are spouses or de facto partners, relatives or carers of the person, or in business, sporting or recreational relationships with the person.</li> </ul>

### (g) Overriding laws protecting public order and safety

	<b>OVERRIDING LAWS PROTECTING PUBLIC ORDER AND SAFETY</b>
<b>WHAT DOES THE BILL DO?</b>	<p>Street preachers and religious organisations that are denied permits by local government authorities may be able to sue for religious discrimination, even if their religious activities would contravene local by-laws which everyone else must comply with.</p> <p>For example, a street preacher could challenge a local government by-law which requires that they obtain a permit to proselytise in a busy public shopping mall.</p>
<b>WHERE DOES IT DO IT?</b>	In protecting against discrimination on religious activity, subsection 5(2) requires ignoring any prohibitions against the activity in local by-laws. This means that local by-laws which prevent or restrict religious activities are susceptible to challenge.
<b>WHAT HAS CHANGED SINCE THE FIRST EXPOSURE DRAFT?</b>	This provision is new.

<sup>10</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [203].

<sup>11</sup> Explanatory Notes to the Second Exposure Draft of the Religious Discrimination Bill 2019, [202].

<sup>12</sup> See section 2C of the *Act Interpretation Act 1901* (Cth).

<b>WHAT SHOULD HAPPEN?</b>	Council by-laws that impermissibly limit any human rights (such as the right to peaceful political assembly) should be amended or overridden. It is time for a broader review of laws which discriminate on all prohibited grounds, and greater statutory protection for all human rights, such as equality before the law.
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## (h) Other issues

The following issues identified in our [submission](#) to the first exposure draft of the Religious Discrimination Bill remain in issue:

- a Freedom of Religion Commissioner has been retained but there is still no LGBTI Commissioner. LGBTI Australians will be the only group protected under federal anti-discrimination legislation without a dedicated Commissioner at the Australian Human Rights Commission.
- unnecessary amendments to the *Charities Act 2013* (Cth) supposedly ‘clarifying’ charities with so-called ‘traditional views of marriage’ are not disqualified from being charities, have not been removed.
- unnecessary amendments to provide further exemptions for religious schools in the *Marriage Act 1961* (Cth) have not been removed.