

Table of contents

Membership of the committee	iii
Chair's Foreword.....	ix
Recommendations	xiii
Chapter 1—Introduction	1
Background.....	1
Overview of legislative history	1
Introduction of bills	2
Initiation of inquiry	2
Conduct of inquiry	2
Consideration by other parliamentary committee's.....	4
Structure of the report	4
Acknowledgements	5
Note to References.....	5
Chapter 2—Legislative Framework	7
Purpose of the religious discrimination legislative package.....	7
Key provisions of the Religious Discrimination Bill 2021	8
Conduct by religious bodies that is classified as not constituting discrimination.....	10
Statements of belief	13
Concept of discrimination on the ground of religious belief or activity	14
Unlawful discrimination	15
Exceptions and exemptions.....	16
Offences.....	17
The Australian Human Rights Commission	18
Relationship with other laws.....	18
Key human rights principles	19
Key human rights engaged	20
Limitation criteria	30
Key issues raised by submitters and witnesses.....	36

Constitutional context	37
Committee view	39
Chapter 3— Unlawful discrimination	41
Prohibiting discrimination on basis of religion.....	41
Concept of discrimination	47
Defining religious belief or activity.....	47
Local by-laws	48
Indirect discrimination if condition or practice is not reasonable.....	49
Burden of proof	51
Bodies corporate able to claim discrimination	52
Exceptions and exemptions.....	54
Clause 35 – counselling, promoting a serious offence.....	54
Clause 37 – conduct by law enforcement, national security and intelligence bodies.....	55
Clause 39 – exceptions in relation to inherent requirements for employment.....	55
Clause 40 – Exceptions relating to camps and conference sites	57
Exemptions granted by the Australian Human Rights Commission	59
Role of Religious Discrimination Commissioner.....	60
International human rights law	61
Rights to freedom of religion, freedom of expression and equality and non-discrimination	61
Committee view	68
Chapter 4— Conduct by religious bodies.....	73
Religious bodies acting in accordance with their faith	73
Definition of 'religious body'	75
Reasonableness test	76
Avoid injury to religious susceptibilities.....	79
Employment by religious bodies (clause 7, 9 and 10).....	79
Access to services from religious bodies	84
Reasonable conduct intended to meet a need or reduce a disadvantage	87
Amendments to Charities Act regarding views on marriage	88

International human rights law	90
Rights to freedom of religion or belief, freedom of expression, equality and non-discrimination, work, private and family life	90
Committee view	111
Chapter 5— Religious educational institutions.....	113
Preserving an educational institution's religious ethos	113
Impact on employment for staff of schools.....	115
Requirement for publicly available policy	118
Overriding certain state and territory laws.....	121
Victorian Equal Opportunity Act 2010	124
Students of religious educational institutions	126
Enrolment and expulsion of students	128
Refusal to provide facilities, goods or services for solemnisation of marriage	130
International human rights law	132
Rights to freedom of religion or belief, freedom of expression, equality and non-discrimination, work, private and family life, education and rights of the child.....	132
Committee view	148
Chapter 6— Statements of belief	151
Protection of statements of belief	151
Interaction with existing discrimination law	156
Tasmanian anti-discrimination law	158
Power to prescribe additional laws.....	161
Scope of clause 12	163
Safeguards in subclause 12(2) – no malicious, vilifying etc statements.....	163
'Good faith' requirements and 'genuine belief'	166
Potential impact on particular groups	169
People with disability	171
Women	171
LGBTIQA+ individuals	172
Race discrimination law.....	173

People of faith	174
Accessing health care	175
Statements of belief in the workplace	176
Access to resolution of discrimination complaints	178
Qualifying bodies	181
International human rights law	187
Rights to freedom of religion, freedom of expression and equality and non- discrimination	187
Committee view	197
Additional comments by Australian Labor members.....	201
Introduction	201
Inquiry Process	202
Key areas of controversy	202
Conclusion	206
Dissenting report by Australian Greens member.....	209
The importance of protecting human rights	209
The flawed process to date	210
Flaws in the government's proposed bill	211
This bill will have a devastating impact on people's lives	220
Broad community opposition.....	232
Fundamental flaws in the government's approach	235
Appendix 1—Submissions received.....	237
Appendix 2—Public hearings	245
Appendix 3—Tabled documents, additional information, questions on notice and form letters	249
Appendix 4— Survey questions and sample of responses	253