

Queensland



ANTI-DISCRIMINATION AMENDMENT ACT 2001

Act No. 35 of 2001

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Anti-Discrimination Amendment Act 2001

Act No. 35 of 2001

An Act to amend the *Anti-Discrimination Act 1991*

[Assented to 7 June 2001]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Anti-Discrimination Amendment Act 2001*.

2 Act amended

This Act amends the *Anti-Discrimination Act 1991*.

3 Insertion of new s 3A

After section 3—

insert—

‘3A Application of Act to ships connected with Queensland

‘(1) Without limiting the extent to which this Act may otherwise apply, it is declared that this Act applies to acts done on ships connected with Queensland.

‘(2) However, subsection (1) does not limit the laws of Queensland providing for the application of the criminal law to offences committed at sea.¹

‘(3) For this section, a ship is a ship connected with Queensland if—

- (a) it is registered under the *Shipping Registration Act 1981* (Cwlth) with a home port in Queensland; or
- (b) it is, or is required to be, registered or licensed under the *Transport Operations (Marine Safety) Act 1994* or another Act; or
- (c) it is owned or chartered by—
 - (i) an individual whose place of residence, or principal place of residence, is in Queensland; or

¹ See for example the Criminal Code, section 14A (Offences committed on the high seas).

- (ii) a person whose place of business, or principal place of business, is in Queensland; or
- (iii) a person whose principal place of business for managing the ship's operations is in Queensland.’.

4 Amendment of s 4 (Definitions)

(1) Section 4—

insert—

‘**“public act”** see section 4A.’.

(2) Section 4, definition **“educational institution”**, from ‘at which any’—

omit, insert—

‘providing any form of training or instruction, and includes a place at which training or instruction is provided by an employer.’.

5 Insertion of new s 4A

After section 4—

insert—

‘4A Meaning of **“public act”**

‘(1) A **“public act”** includes—

- (a) any form of communication to the public, including by speaking, writing, printing, displaying notices, broadcasting, telecasting, screening or playing of tapes or other recorded material, or by electronic means; and
- (b) any conduct that is observable by the public, including actions, gestures and the wearing or display of clothing, signs, flags, emblems or insignia.

‘(2) Despite anything in subsection (1), a **“public act”** does not include the distribution or dissemination of any matter by a person to the public if the person does not know, and could not reasonably be expected to know, the content of the matter.’.

6 Insertion of new s 15A

After section 15—

insert—

‘15A Discrimination by principals

‘(1) This section applies if a person (the “**worker**”) does work for another person (the “**principal**”) under or because of—

- (a) a contract between the principal and a third person; or
- (b) another arrangement, or a series of arrangements, involving the principal and a third person, whether or not the arrangement or series of arrangements also involves other persons.

‘(2) The principal must not discriminate against the worker—

- (a) in the terms in which the principal allows the worker to work; or
- (b) by not allowing the worker to work or continue to work; or
- (c) by denying or limiting access by the worker to any benefits connected with the work; or
- (d) by treating the worker unfavourably in any way in connection with the work.

‘(3) This section does not limit section 15.’.

7 Amendment of s 106A (Compulsory retirement age under legislation etc.)

(1) Section 106A(1)(g)—

omit.

(2) Section 106A(1)(h), ‘*Fire Service Act 1990*’—

omit, insert—

‘*Fire and Rescue Authority Act 1990*’.

8 Insertion of new ch 4, pt 4

After section 124—

insert—

‘PART 4—RACIAL AND RELIGIOUS VILIFICATION

‘124A Racial or religious vilification unlawful

‘(1) A person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race or religion of the person or members of the group.

‘(2) Subsection (1) does not make unlawful—

- (a) the publication of a fair report of a public act mentioned in subsection (1); or
- (b) the publication of material in circumstances in which the publication would be subject to a defence of absolute privilege in proceedings for defamation; or
- (c) a public act, done reasonably and in good faith, for academic, artistic, scientific or research purposes or for other purposes in the public interest, including public discussion or debate about, and expositions of, any act or matter.’

9 Omission of ch 5, pt 2

Chapter 5, part 2—

omit.

10 Insertion of new ch 5A

After section 131—

insert—

‘CHAPTER 5A—SERIOUS RACIAL AND RELIGIOUS VILIFICATION

‘131A Offence of serious racial or religious vilification

‘(1) A person must not, by a public act, knowingly or recklessly incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race or religion of the person or members of the group in a way that includes—

- (a) threatening physical harm towards, or towards any property of, the person or group of persons; or
- (b) inciting others to threaten physical harm towards, or towards any property of, the person or group of persons.

Maximum penalty—

- (a) for an individual—70 penalty units or 6 months imprisonment;
- (b) for a corporation—350 penalty units.

‘(2) A Crown Law Officer’s written consent must be obtained before a proceeding is started by complaint under the *Justices Act 1886* in relation to an offence under subsection (1).

‘(3) An offence under subsection (1) is not an offence for section 155(2) or 226.²

‘(4) In this section—

“**Crown Law Officer**” means the Attorney-General or Director of Public Prosecutions.’.

11 Amendment of s 193 (Complainant may withdraw complaint)

Section 193(3), ‘commissioner’—

omit, insert—

‘tribunal’.

12 Insertion of new ss 226A and 226B

Chapter 7, part 4, division 5—

insert—

‘226A Continuing prohibition on identity disclosure

‘(1) This section applies if—

- (a) under section 191(1),³ the tribunal makes an order prohibiting the disclosure of the identity of a person (the “**relevant person**”); and

² Section 155 (Investigation of complaints) or 226 (Proceedings for offences)

³ Section 191 (Anonymity)

- (b) a court is hearing—
 - (i) a prosecution for an offence under section 191(2) relating to the order; or
 - (ii) an appeal relating to a prosecution for an offence under section 191(2) relating to the order; and
- (c) the court considers that the preservation of the anonymity of the relevant person is necessary to protect the work security, privacy or any human right of the relevant person.

‘(2) The court may make an order prohibiting the disclosure of the relevant person’s identity.

‘(3) A contravention of an order made under subsection (2) is a contempt of the court.

‘226B Continuing restriction on publication of evidence

‘(1) This section applies if—

- (a) under section 192(1),⁴ the tribunal makes an order that oral or documentary evidence (the “**relevant evidence**”) must not be published, except as directed by the tribunal; and
- (b) a court is hearing—
 - (i) a prosecution for an offence under section 192(2) relating to the order; or
 - (ii) an appeal relating to a prosecution for an offence under section 192(2) relating to the order; and
- (c) the court considers that, in the circumstances, a court order that the relevant evidence must not be published, except as directed by the court, should be made.

‘(2) The court may make an order that the relevant evidence must not be published, except as directed by the court.

‘(3) A contravention of an order made under subsection (2) is a contempt of the court.’.

4 Section 192 (Publication of evidence may be restricted)

