

Queensland



# **ANTI-DISCRIMINATION AMENDMENT BILL 2001**



# Queensland



## ANTI-DISCRIMINATION AMENDMENT BILL 2000

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**2001**

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**A BILL**

**FOR**

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

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<b>The Parliament of Queensland enacts—</b>	1
<b>Clause 1 Short title</b>	2
This Act may be cited as the <i>Anti-Discrimination Amendment Act 2001</i> .	3
<b>Clause 2 Act amended</b>	4
This Act amends the <i>Anti-Discrimination Act 1991</i> .	5
<b>Clause 3 Insertion of new s 3A</b>	6
After section 3—	7
<i>insert—</i>	8
<b>‘3A Application of Act to ships connected with Queensland</b>	9
‘(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.	10 11 12
‘(2) However, subsection (1) does not limit the laws of Queensland providing for the application of the criminal law to offences committed at sea. <sup>1</sup>	13 14 15
‘(3) For this section, a ship is a ship connected with Queensland if—	16
(a) it is registered under the <i>Shipping Registration Act 1981</i> (Cwlth) with a home port in Queensland; or	17 18
(b) it is, or is required to be, registered or licensed under the <i>Transport Operations (Marine Safety) Act 1994</i> or another Act; or	19 20 21
(c) it is owned or chartered by—	22
(i) an individual whose place of residence, or principal place of residence, is in Queensland; or	23 24

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

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|---|--------|
| (ii) a person whose place of business, or principal place of business, is in Queensland; or             | 1<br>2 |
| (iii) a person whose principal place of business for managing the ship's operations is in Queensland.’. | 3<br>4 |

<b>Clause 4</b>	<b>Amendment of s 4 (Definitions)</b>	5
	(1) Section 4—	6
	<i>insert—</i>	7
	‘ <b>“public act”</b> see section 4A.’.	8
	(2) Section 4, definition <b>“educational institution”</b> , from ‘at which any’—	9 10
	<i>omit, insert—</i>	11
	‘providing any form of training or instruction, and includes a place at which training or instruction is provided by an employer.’.	12 13
 <b>Clause 5</b>	 <b>Insertion of new s 4A</b>	 14
	After section 4—	15
	<i>insert—</i>	16
	<b>‘4A Meaning of “public act”</b>	17
	(1) A <b>“public act”</b> includes—	18
	(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	19 20 21 22
	(b) any conduct that is observable by the public, including actions, gestures and the wearing or display of clothing, signs, flags, emblems or insignia.	23 24 25
	(2) Despite anything in subsection (1), a <b>“public act”</b> 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.’.	26 27 28 29

<b>Clause 6</b>	<b>Insertion of new s 15A</b>	1
	After section 15—	2
	<i>insert—</i>	3
	<b>‘15A Discrimination by principals</b>	4
	‘(1) This section applies if a person (the “ <b>worker</b> ”) does work for another person (the “ <b>principal</b> ”) under or because of—	5
		6
	(a) a contract between the principal and a third person; or	7
	(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.	8
		9
		10
	‘(2) The principal must not discriminate against the worker—	11
	(a) in the terms in which the principal allows the worker to work; or	12
	(b) by not allowing the worker to work or continue to work; or	13
	(c) by denying or limiting access by the worker to any benefits connected with the work; or	14
		15
	(d) by treating the worker unfavourably in any way in connection with the work.	16
		17
	‘(3) This section does not limit section 15.’.	18
<b>Clause 7</b>	<b>Amendment of s 106A (Compulsory retirement age under legislation etc.)</b>	19
		20
	(1) Section 106A(1)(g)—	21
	<i>omit.</i>	22
	(2) Section 106A(1)(h), ‘ <i>Fire Service Act 1990</i> ’—	23
	<i>omit, insert—</i>	24
	‘ <i>Fire and Rescue Authority Act 1990</i> ’.	25
<b>Clause 8</b>	<b>Insertion of new ch 4, pt 4</b>	26
	After section 124—	27
	<i>insert—</i>	28



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**‘PART 4—RACIAL AND RELIGIOUS VILIFICATION** 1

**‘124A Racial or religious vilification unlawful** 2

‘(1) A person must not, by a public act, incite hatred towards, serious 3  
contempt for, or severe ridicule of, a person or group of persons on the 4  
ground of the race or religion of the person or members of the group. 5

‘(2) Subsection (1) does not make unlawful— 6

(a) the publication of a fair report of a public act mentioned in 7  
subsection (1); or 8

(b) the publication of material in circumstances in which the 9  
publication would be subject to a defence of absolute privilege in 10  
proceedings for defamation; or 11

(c) a public act, done reasonably and in good faith, for academic, 12  
artistic, scientific or research purposes or for other purposes in 13  
the public interest, including public discussion or debate about, 14  
and expositions of, any act or matter.’. 15

**Clause 9 Replacement of ch 5, pt 2** 16

Chapter 5, part 2— 17

*omit, insert—* 18

**‘PART 2—SERIOUS RACIAL AND RELIGIOUS 19  
VILIFICATION** 20

**‘126 Offence of serious racial or religious vilification** 21

‘A person must not, by a public act, knowingly or recklessly incite hatred 22  
towards, serious contempt for, or severe ridicule of, a person or group of 23  
persons on the ground of the race or religion of the person or members of 24  
the group in a way that includes— 25

(a) threatening physical harm towards, or towards any property of, 26  
the person or group of persons; or 27

(b) inciting others to threaten physical harm towards, or towards any 28  
property of, the person or group of persons. 29

Maximum penalty—	1
(a) for an individual—70 penalty units or 6 months imprisonment;	2
(b) for a corporation—350 penalty units.	3
<b>‘126A Complaint to commissioner about contravention of s 126</b>	4
‘(1) This section applies if, under chapter 7, part 1, division 1, a complaint is made to the commissioner about an alleged contravention of section 126.	5 6 7
‘(2) For the purpose of the complaint mentioned in subsection (1) being dealt with under this Act, the complaint is taken to be a complaint about an alleged contravention of section 124A.	8 9 10
‘(3) However, nothing in subsection (2) stops the commissioner from—	11
(a) also dealing with the complaint mentioned in subsection (1) as an allegation, for section 155(2)(b), that an offence against section 126 has been committed; and	12 13 14
(b) if appropriate, prosecuting the offence under section 226.’.	15
<b>Clause 10 Amendment of s 193 (Complainant may withdraw complaint)</b>	16
Section 193(3), ‘commissioner’—	17
<i>omit, insert—</i>	18
‘tribunal’.	19
<b>Clause 11 Insertion of new ss 226A and 226B</b>	20
Chapter 7, part 4, division 5—	21
<i>insert—</i>	22
<b>‘226A Continuing prohibition on identity disclosure</b>	23
‘(1) This section applies if—	24
(a) under section 191(1), <sup>2</sup> the tribunal makes an order prohibiting the disclosure of the identity of a person (the “ <b>relevant person</b> ”); and	25 26 27

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2 Section 191 (Anonymity)

(b) a court is hearing—	1
(i) a prosecution for an offence under section 191(2) relating to the order; or	2 3
(ii) an appeal relating to a prosecution for an offence under section 191(2) relating to the order; and	4 5
(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.	6 7 8
‘(2) The court may make an order prohibiting the disclosure of the relevant person’s identity.	9 10
‘(3) A contravention of an order made under subsection (2) is a contempt of the court.	11 12
<b>‘226B Continuing restriction on publication of evidence</b>	13
‘(1) This section applies if—	14
(a) under section 192(1), <sup>3</sup> the tribunal makes an order that oral or documentary evidence (the “ <b>relevant evidence</b> ”) must not be published, except as directed by the tribunal; and	15 16 17
(b) a court is hearing—	18
(i) a prosecution for an offence under section 192(2) relating to the order; or	19 20
(ii) an appeal relating to a prosecution for an offence under section 192(2) relating to the order; and	21 22
(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.	23 24 25
‘(2) The court may make an order that the relevant evidence must not be published, except as directed by the court.	26 27
‘(3) A contravention of an order made under subsection (2) is a contempt of the court.’.	28 29

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3 Section 192 (Publication of evidence may be restricted)

