

Legislative Statement: Human Rights (Incitement on Ground of Religious Belief) Amendment Bill - First Reading

Presented to the House of Representatives in accordance with Standing Order 272

Introduction

1. The Bill aims to improve protections for faith-based groups under the provisions of the Human Rights Act 1993 (the Act) that make speech that is likely to excite hostility unlawful.

Background

2. There are two provisions in the Act that make speech unlawful if it is likely to 'excite hostility' against any groups on the grounds of colour, race, or ethnic or national origins. These provisions are aimed at speech that incites racial disharmony.
3. Section 61 of the Act makes it unlawful to publish or distribute threatening, abusive, or insulting words likely to 'excite hostility against' or 'bring into contempt' any of these groups. Section 61 is a civil provision, where complaints are handled by the Human Rights Commission in the first instance.
4. Section 131 of the Act makes it a criminal offence to publish or distribute written matter or use words in a public place that are threatening, abusive, or insulting and which are likely to 'excite hostility or ill will against, or bring into contempt or ridicule', any of these groups. An intention element is required. Offences are prosecuted by Police with the consent of the Attorney-General.
5. The Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain on 15 March 2019 found justification to recommend that religion be added as a protected ground in the criminal provision (recommendation 40). Evidence shows that faith-based groups are experiencing harmful speech and discrimination, which has a detrimental impact on the groups and on wider societal cohesion.

Provisions of the Human Rights (Incitement on Ground of Religious Belief) Amendment Bill

6. The Bill proposes extending the coverage of the civil and criminal incitement provisions in the Act (sections 61 and 131 respectively) beyond the protected grounds of colour, race, and ethnic and national origins.
7. The Bill inserts religious belief in those provisions. 'Religious belief' is already referred to in the Act, as it is one of the prohibited grounds of discrimination listed in section 21.