

Factsheet

Equal Opportunity (Religious Bodies) Amendment Bill 2020 (SA)

What does this proposed Bill do?

The Bill proposes to amend two sections of the *Equal Opportunity Act 1984* (SA) that protect religious freedom by allowing religious bodies to operate according to their beliefs about gender and sexuality.

The Bill will limit one section to **only narrowly apply** to “the selection or appointment of a person to perform functions in relation to, or otherwise participate in, any religious observance or practice” a very narrow scope! This section currently provides protections for religious bodies in relation to the internal “administration” of that organisation “in accordance with the precepts of that religion”.

The other proposed amendment **removes exemptions** where religious bodies are involved in:

- children’s education
- health care and disability support
- aged care
- emergency accommodation
- public housing
- foster care placement.

What is the effect of the Bill?

The Bill will have the effect of **removing** the existing clear protections for religious bodies, **including Christian schools**, to:

- administer themselves in accordance with their beliefs regarding gender and sexuality;
- teach a Biblical view of gender and sexuality when offering the above services; or
- enforce Biblical standards of gender and sexuality when offering the above services.

The ability of schools to work with and support parents will be replaced by Court and Tribunals imposing their views on families.

Doesn’t the Government indicate that Christian schools will not be affected by the Bill?

The Government indicates, correctly, that “an existing exemption for hiring staff in religious educational institutions will still apply”, which is true, but gives a very **misleading impression** of the impact of the changes. As the preliminary legal advice we have received makes very clear –

“If the Bill passes, it will expose Christian schools to discrimination claims for teaching Biblical views of marriage, sex, gender and sexuality or for requiring conduct consistent with Biblical standards in relation to dating, relationships and sexual conduct from students. The Bill is deeply flawed and eradicates protections for Christian Schools and their religious freedom.”

Isn't religious freedom protected by the Constitution?

No! Section 116 of the Australian Constitution does provide a very limited protection against Commonwealth Government legislation that directly constrains religious freedom. This does not stop any State government from making laws that limit religious freedoms.

In fact, there have been numerous inquiries and reports that have pointed out the **lack of protections for religious freedom in Australia**. The recent report by the Expert Panel on Religious Freedom singled out South Australia and New South Wales as being the only states without clear protections for religious freedom in state laws.

Why is the Government proposing these changes?

That is a very good question. Rather bizarrely the Government has claimed the findings of the Expert Panel on Religious Freedom were part of the basis for the changes. They also referred to a "community roundtable" with LGBTIQ groups and a discredited report prepared by the South Australian Law Reform Institute in 2016 about religious exceptions in the Equal Opportunity Act.

The crux of the Government's thinking seems summed up in their comment on the background to the Bill that "We want to make it clear that some essential service providers cannot rely on exceptions" – in other words, **religious freedoms will only apply in areas that the State Government allows**.

There certainly is no evidence of widespread community concerns.

Why should Christian schools be exempt from discrimination laws?

Until there are proper legislative protections, **exemptions provide the only limited protection for religious freedom**.

The way discrimination laws are drafted they rely upon these exemptions to 'balance' various human rights. They would be **better described as 'balancing' provisions** rather than exemptions as they are essential to meet international human rights obligations.

How will this Bill impact parents?

Our legal advice makes it clear that this Bill will remove "the only positive protection given by the [Equal Opportunity] Act to Christian parents' fundamental right to give their children a religious education as guaranteed by Article 18(4) of the *International Covenant on Civil and Political Rights* that Australia is a party to and is bound to uphold".

You want to ensure that your child is educated in accordance with **your values and beliefs** – this Bill removes the positive protections to be able to do so.

What can I do?

There are two things you can do now to oppose this Bill:

1. **Contact your local state MP**, our page on the ValuEd Voices website. [here](#), allows you to simply and easily send an email to your MP.
2. Sign up and **have your say** into the Government's consultation [here](#). Activists supporting the Bill and seeking to take away your rights are already contributing – make sure that your voice is heard.