

TASMANIA

ANTI-DISCRIMINATION AMENDMENT BILL 2016

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ANTI-DISCRIMINATION AMENDMENT BILL 2016

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
25 October 2016

*(Brought in by the Minister for Health, the Honourable
Michael Darrel Joseph Ferguson)*

A BILL FOR

An Act to amend the *Anti-Discrimination Act 1998*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Anti-Discrimination Amendment Act 2016*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Anti-Discrimination Act 1998** is referred to as the Principal Act.

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4. Section 55 substituted

Section 55 of the Principal Act is repealed and the following section is substituted:

55. Public purpose

(1) The provisions of section 17(1) and section 19 do not apply if the relevant conduct or public act is –

(a) a fair report of a public act; or

(b) a communication or dissemination of a matter that is subject to a defence of absolute privilege in proceedings for defamation; or

(c) a public act done in good faith for –

(i) academic, artistic, scientific, religious or research purposes; or

(ii) any purpose in the public interest.

(2) In this section –

religious purpose includes, but is not limited to, conveying, teaching or proselytising a religious belief.

5. Section 64 amended (Rejection of complaints)

Section 64 of the Principal Act is amended by inserting after subsection (1) the following subsections:

- (1A) The Commissioner must reject a complaint to the effect that a person has engaged in conduct of the kind referred to in section 17(1) if the Commissioner is satisfied that –
- (a) a reasonable person, having regard to all the circumstances, would not have anticipated that the person by or in respect of whom the complaint is made would, as the case may be, be offended, humiliated, intimidated, insulted or ridiculed by the conduct; or
 - (b) by virtue of section 55, the provisions of section 17(1) do not apply to the conduct.
- (1B) The Commissioner must reject a complaint to the effect that a person has done a public act of the kind referred to in section 19 if the Commissioner is satisfied that –
- (a) the public act does not constitute an incitement of, as the case may be, hatred towards, serious contempt for or severe ridicule of the person or persons by or in

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respect of whom the complaint is made on whichever of the grounds referred to in section 19(a), (b), (c) and (d) is relevant to the complaint; or

- (b) by virtue of section 55, the provisions of section 19 do not apply to the public act.

6. Section 71 amended (Completion of investigation)

Section 71 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) Notwithstanding subsection (1), the Commissioner must determine that the complaint is dismissed if he or she is satisfied from the findings of the investigation, whether or not carried out by the Commissioner personally, that it is a complaint that the Commissioner, exercising reasonable judgement, ought to have rejected pursuant to section 64(1A) or (1B).

7. Section 99 amended (Dismissal of complaint)

Section 99 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (2A) The Tribunal must dismiss a complaint if it is satisfied, in all the circumstances,

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that it is a complaint that the Commissioner, exercising reasonable judgement, ought to have rejected pursuant to section 64(1A) or (1B).

8. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.