



Australian Government

Australian Law Reform Commission

Media Release

21st March 2024

The Australian Law Reform Commission (ALRC) has recommended legislative reforms to ensure the Australian Government's policy regarding anti-discrimination laws and religious educational institutions is given legal effect in accordance with Australia's international legal obligations.

The ALRC's Report – 'Maximising the Realisation of Human Rights: Religious Educational Institutions and Anti-Discrimination Laws', was today tabled in Parliament by the Attorney General and published online.

The implementation of the government's policy in accordance with the ALRC's recommendations would mean that under Federal law religious schools are in much the same position as all other schools, except that religious schools would not be prohibited by the *Fair Work Act* from being able to give preference in employment to a person of the same religion where that is reasonably necessary and proportionate to the school's objective of building a community of faith.

No school would be permitted to discriminate against students or staff based on those attributes protected by the *Sex Discrimination Act* (SDA). All schools would continue to have the benefit of those provisions of the SDA which provide that conduct with a disadvantaging effect is not indirectly discriminatory if the conduct is reasonable in the circumstances.*

Currently, under Federal law religious educational institutions are permitted to discriminate against students and staff on certain grounds, including based on sexual orientation, pregnancy, or marital status. However, anti-discrimination laws in many states and both territories already prohibit discrimination against staff and students of religious schools.

The Terms of Reference for this inquiry tasked the ALRC with recommending the legislative reforms required to ensure that the government's policy when enacted as law, will be consistent with Australia's international legal obligations.

The ALRC conducted over 130 consultations and received over 400 submissions and 40,000 survey responses. The implementation of the government's policy in accordance with the ALRC's recommended reforms will:

- substantially narrow the circumstances in which discrimination by religious educational institutions against their students and staff is permissible at law.
- maximise the enjoyment of human rights and appropriately manage the intersection of rights.
- ensure any restriction of rights is justifiable under international law.
- make federal law more consistent with state and territory laws and the law in comparable overseas jurisdictions.

Quotes from ALRC President, Justice Bromberg: 'For the law to narrow the circumstances in which it is lawful for religious schools to discriminate against students and staff whilst preserving their capacity to maintain a community of faith, manages the intersection of human rights according to the international law obligations Australia is obliged to respect.'

**For some guidance as to what circumstances may be considered reasonable see 4.162 of the ALRCs Report*

Ends

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