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Institute of Public Affairs

Justice, Integrity and Community Safety Committee
Parliament House
George Street
Brisbane, QLD 4000

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Dear Committee,

The Institute of Public Affairs (IPA) welcomes the opportunity to share its analysis of the Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 (the bill).

The IPA notes the Queensland government's claimed determination to pass the bill in response to the rise of antisemitism in Australia. Specifically, prior to its introduction, the government asserted that it was creating new offences to ban phrases such as "globalise the intifada" and "from the river to the sea".

However, the bill does not specifically ban these phrases. Rather, it confers broad powers upon a government minister to ban phrases at their discretion. In this way, the bill repeats the failures of the recently passed federal *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026* (Cth) through its limitless scope and lack of specificity.

While the promotion or advocacy of violence of any kind is abhorrent and should unequivocally be condemned, the proposed approach will not address the underlying problem, namely that people harbouring these views have been allowed to enter our country and sectarian attitudes have been allowed to fester under a policy of multiculturalism. Moreover, the attempt to stop antisemitism by giving a minister within the government the power to ban specific phrases will do little to prevent people from privately subscribing to the ideology or adopting alternative phrases to express the same ideas.

The bill sets a dangerous new precedent of authorising a government by declaration to outlaw words, amounting to a significant threat to freedom of speech and public debate. IPA research finds:

1. The bill confers extraordinary power on a single Minister that opens the door to overreach.
2. The ambiguous and subjective standards for unlawful phrases would enable the government to criminalise political speech.
3. The safeguards will be ineffective at limiting the Minister's power.

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The bill confers extraordinary power on a single Minister that opens the door to overreach

The bill confers a sweeping discretionary power on the Attorney-General and Minister for Justice and Minister for Integrity to make a prohibited regulation expression outlawing certain phrases.

The bill creates a new offence in the *Criminal Code Act 1899* (section 52DA) making a person liable for two years imprisonment or a fine of 150 penalty units (equivalent to $25,035 in 2026) if they publicly recite, distribute, publish or display a prohibited expression in a way that could cause a member of the public to feel "menaced, harassed or offended".

In order to make a prohibited expression regulation, the Minister must merely be satisfied that the expression is

- either widely known by the public, or by "members of a relevant group" as being "solely or substantially representative of an ideology of extreme prejudice against a relevant group" and
- "regularly used to incite discrimination, hostility, or violence towards a relevant group" (Clause 4 of the bill).

In order for a prohibited expression regulation to be made, the words in question do not need to contain an actual victim, nor does any harm need to have actually been caused. The Minister only needs to make the subjective judgment that the phrase is "widely known" by either the public or a specific group as representing an "ideology of extreme prejudice", and is "regularly used" to "incite discrimination, hostility or violence" against the group. In other words, the Minister has the power to criminalise words based on their hypothetical potential to harm, based on a threshold as low as their capacity to "incite hostility" or represent an ideology of "extreme prejudice" to a specific group.

The sweeping power to prohibit words extends to the police, who would be authorised to search people and vehicles without a warrant (Clauses 19 and 20). Given the hypothetical nature of the harm, warrantless searches of person is an excessive and unreasonable violation of bodily integrity.

The ambiguous and subjective standards for unlawful phrases would enable the government to criminalise political speech

The definition of a prohibited expression is an expression which "is regularly used to incite discrimination, hostility or violence towards a relevant group" (Clause 4). This standard is so vague that it is virtually unlimited.

A plain reading of the words in the bill would enable the Minister to ban phrases simply because they elicit a strong emotional response. An expression that "incites hostility" could be interpreted as broadly as a phrase that evokes strong disagreement. Similarly, words that "incite discrimination" could be understood as words that treat someone unfairly.

While the Queensland government has claimed the bill will be used to target antisemitic speech, the bill creates the architecture for any phrase to be outlawed so long as it is directed at a group. A relevant group is defined as a group of persons identifying with each other based on race, religion, sexuality, sex characteristics or gender identity (*Criminal Code Act 1899*, s 52C(5)).

This means that the prohibited expression regulation power could also be used to target phrases used in any contentious public debate so long as it is directed at a group. Public debate about major public policy questions could be constrained if the Minister believes that it would incite hostility. For instance, criticism of the federal government's migration program, or state government proposals for "treaties" based on citizens' racial background, would potentially fall within the scope of the bill. If the laws had been in force in 2023, it is conceivable that comments critical of the proposed Voice to Parliament could have been made illegal under these laws if the Minister was satisfied that rejection of the Voice incited hostility or discrimination against indigenous Australians.

The broad discretion afforded to the Minister to import their values onto a subjective and ambiguous standard invites the abuse of this power.

The safeguards are ineffective at limiting the Minister's power

While the Minister must meet multiple procedural requirements, these will not limit their power in making a prohibited expression regulation.

Before making a prohibited expression regulation, Clause 4 of the bill inserts Section 52C(4) into the *Criminal Code Act 1899,* requiring the Minister to consult with the chairperson of the Crime and Corruption Commission, the Human Rights Commissioner, and the commissioner of the police service. However, the obligation to consult these officials will not have a substantive effect on the outcome, as the Minister is not required to act upon their advice.

Similarly, section 50 of the *Statutory Instruments Act 1982* allows for the Legislative Assembly to pass a resolution disallowing subordinate legislation, including regulations, provided the disallowance motion is passed within 14 days of the regulation being tabled in the Legislative Assembly.

However, Queensland is a unicameral parliament where the Legislative Assembly will always be controlled by the government of the day. Given a government will not vote against itself, the Legislative Assembly typically would not have the requisite numbers to disallow a government regulation until after there is a change of government, at which time the window to pass a disallowance motion has likely lapsed.

Conclusion

The Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026 would allow a government to criminalise opinions on key matters of public policy and impose severe criminal penalties in the absence of any actual victim or harm. Far from a targeted and narrow legislative approach, the bill creates the architecture for

a government minister to exercise unfettered powers to ban speech. For these reasons, the IPA recommends the bill be abandoned.

I thank the committee for the opportunity to make this submission and welcome the opportunity to further discuss the provisions of the bill.

Kind regards,

Margaret Chambers

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