

To the Department of Justice

Thank you for providing the opportunity to make a submission regarding the Police Offences Amendment (Workplace Protection) Bill 2022.

It is my understanding that the Tasmania state government intends to amend the Police Officer Act (POA) legislation due to concerns about protecting workers and businesses. However, the extreme penalties outlined in both section 13 and section 14B of the amendment, broad applications of the new terms found in the amendments, and the implementation of the amendment are unnecessary due to current legislation already being in place. Due to these reasons, I believe that if the amendment is to be passed, it would be a significant restriction on freedom of political communication.

Both section 13 and section 14B under the amendment set extreme penalties for the offences of public annoyance and aggravated trespass respectively. For reference, under the amendment:

- Penalties for public annoyance will more than triple.
- Penalties for trespass that cause a serious risk to the safety of another are tripled and increased five times if the person has been convicted of the offence before. This is disproportionate considering there is only one offence in the POA which attracts a higher penalty, which is where a convicted offender habitually consorts with another convicted offender (s 20C(1)).
- Trespass by a body corporate that obstructs a business carries a penalty of 600 units, which is extreme given that it is four times the current highest penalty of 125 units (s 20C(1)).

Section 13 and section 14B under the amendment also contain wordings that have broad applications. For example, the wording 'unreasonably obstructing the use of any street' in s13 covers a vast array of activities. The word 'street' itself is broad in nature, given that in the amended POA in s13, it is defined as including 'any road, square, court, passage, alley, thoroughfare, or public way or footway, any pace of public resort, and any avenue leading thereto'. Moreover, the term 'unreasonable' is also vague and is subject to police discretion.

In addition, there are many existing offences that operate to protect businesses and people from trespass and public annoyance, while the rights of citizens to protest are not impermissibly burdened in the process. For example, it is an offence under the Criminal Code (Tas) to commit any common nuisance which endangers the lives, safety or health of the public: s 141(1). In addition, a police officer may already direct a person in a public place to leave and not return for a specified period of time if they believe on reasonable grounds that they are obstructing the movement of pedestrians or vehicles or endangering the safety of another person under s158 of the POA.

Finally, I wish to reiterate that the Australian Constitution contains an implied freedom of political communication, as per *Lange v Australian Broadcasting Corporation*. The implied freedom stipulates that a law that burdens political communication will be constitutionally invalid unless it serves a legitimate purpose and is appropriate and adapted to that purpose. Furthermore, peaceful protest is an important part of political communication as per *Levy*

Victoria and Brown v Tasmania. Given the aforementioned points explained earlier, it is my belief that the amendment is not appropriate and adapted to the Tasmania state government's aim of protecting workers and business, while only serving to stifle political communication in the process.

Once again, thank you for considering this submission.