

RELIGIOUS FREEDOM

A Guide to Your Rights

NEW ZEALAND



“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

*—Universal Declaration
of Human Rights, Article 18*

FREEDOM OF RELIGION AND WORSHIP IN NEW ZEALAND

1. What is the right to freedom of religion and worship?

The right to freedom of religion and worship includes the right, without undue interference, to hold a religious or ethical belief, change one's religion or belief, and one's right not to hold a belief.

- It protects a person's right to express and manifest religious belief in worship, practice, or teaching, either individually or in community with others, and either in public or in private.
- This right also protects against discrimination, coercion, or hostility because of a person's religious beliefs.

2. What is the right to freedom of belief or conscience?

This is a person's fundamental right to hold and follow his or her personal beliefs, reasoning, and convictions and not to be subject to actions that are against his or her deeply held judgements of right and wrong. The right is not limited to religion. It also includes atheist or agnostic beliefs, as well as matters of conscience such as pacifism and conscientious objection to military service.

3. What are the laws that protect religious freedom?

Freedom of religion and worship is protected in New Zealand by a number of different statutes.

The New Zealand Bill of Rights Act 1990:

- Affirms the right to freedom of thought, conscience, religion and belief, including the right to hold and embrace views without interference.
- Protects the right to express religion and belief in worship, observance, teaching and practice. Affirms the right to be free from discrimination on religious and other grounds.

The Human Rights Act 1993:

- Prohibits discrimination based on religious and ethical belief in the areas of employment, business partnerships, access to places, vehicles and facilities, the provision of goods and services, and the provision of land, housing and accommodation.
- Provides specific exceptions for the purpose of respecting religious beliefs (e.g. the employment of a teacher in an integrated or private school). The Treaty of Waitangi / Te Tiriti o Waitangi also provides protection for Māori to observe and practice their beliefs.

4. What is the official religion of New Zealand?

New Zealand has no official religion. It upholds the right to freedom of religion, worship, and belief for all. As a result, many different religions have an established presence in New Zealand.

A number of Christian traditions remain present in New Zealand institutions, though these will most often have a non-religious equivalent. By way of example, in swearing an affidavit or giving evidence in a Court proceeding, a person may either elect to take an oath on the Bible, take an oath on another religious text (such as the Qur'an), or make a non-religious affirmation.

5. What can I do when my right to freedom of religion and worship is violated?

Discrimination on the basis of religious belief is unlawful in New Zealand. Even though New Zealand is a religiously diverse country, you may still encounter people who don't understand or support your beliefs. If you experience discrimination or harassment because of your religious beliefs, you can:

- Contact the Human Rights Commission, which provides free and confidential advice on issues arising under the Human Rights Act 1993, including potential discrimination. If necessary, the Commission can work with the other party to resolve your complaint, including by way of mediation.
- Bring a claim before the Human Rights Review Tribunal. Various remedies are available if the Tribunal finds there has been a breach of the Human Rights Act 1993, including a declaration of breach, an order restraining conduct, and damages.
- Call or visit your local Police station. Offences motivated by hostility to a person's religion are considered hate crimes. The Police will investigate such incidents and endeavor to do all they can to help victims to be safe and to feel safe. The Police work closely with representatives of ethnic communities and organizations like the Human Rights Commission to protect the rights and freedoms of all communities in New Zealand.

RELIGION IN THE PUBLIC SQUARE

6. Can I express my religious views in public?

Yes. The right to express a religious or ethical belief includes worshipping, observing and teaching one's beliefs in community with others or alone, both publicly and privately.

However, limitations can be imposed on how religion and belief are expressed, particularly where matters of public safety or the fundamental rights and freedoms of others are affected. Such limitations must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.

7. Can I share or preach my beliefs to others?

Yes. The right to express a religious or ethical belief also includes the right to: write, issue, and disseminate relevant publications and teach a religion or belief, both publicly and privately.

8. Can I be part of a religious entity or organization?

Yes. People in New Zealand have the right to associate and participate in religious activities as communities. Other than in the case of children, there are no restrictions which preclude a person from joining or associating with a particular religious group.

Children under the age of sixteen remain under the guardianship of their parents. Participation in certain religious ordinances (e.g., baptism) is likely to be regarded as a guardianship issue on which both parents would need to agree before it could lawfully occur.

9. What are the government authorities that regulate religious entities?

Religious entities in New Zealand are not subject to regulation and need not be registered as a matter of course. Accordingly, there is no government authority specifically responsible for the regulation of religion.

Religious entities can be registered as incorporated societies or charitable trust boards. Incorporated societies are subject to regulation by the Registrar of Incorporated Societies, which can include various reporting requirements, such as annual financial statements. Incorporated charitable trust boards are subject to regulation by Charities Services, which is part of the Department of Internal Affairs. Among other things, charitable trust boards are required to submit annual returns. In addition to processing returns, Charities Services also provides educational support and advice to registered charities.

RELIGIOUS FREEDOM IN THE WORKPLACE

10. What influence does freedom of religion have in the relationship between an employer and an employee?

The New Zealand Bill of Rights Act 1990, Human Rights Act 1993, and Employment Relations Act 2000 all protect employees from discrimination in employment based on religious or ethical beliefs.

Employers are required to work in good faith to make religious accommodations for employees unless those accommodations would unreasonably disrupt the employer's activities.

Various steps and remedies are available to employees in cases where they may have been discriminated against or reasonable accommodations for their religious beliefs have not been made, including bringing a personal grievance against their employer.

11. What is the relationship between religious freedom and working hours?

Where a religious or ethical belief requires its adherents to follow a particular practice (e.g. not working certain days or times, prayer breaks), the New Zealand Human Rights Act 1993, Section 28 (3) requires employers are obligated to accommodate the practice unless doing so would unreasonably

disrupt the employer's activities.

While employers must take reasonable steps, there is no guarantee that an employee's religious or ethical practices will be accommodated precisely. For example, depending on operational requirements, an employee may not be able to pray at the exact time or place that their religion prescribes. Employees should communicate with their employer and ensure they have given sufficient notice of any accommodations sought.

12. Can I wear religious clothing to work or refuse to wear part of a uniform because of my religious beliefs?

Yes. Such issues also fall under the employer's obligation to make reasonable accommodations for religious beliefs. In many cases, religious attire can be accommodated without undue disruption to an employer's activities. However, any accommodation which could compromise the health or safety of the employee or others is unlikely to be made.

RELIGIOUS FREEDOM IN SCHOOLS

13. Can there be religion classes in public schools?

State schools may, but are not required to, provide religious instruction. Where religious instruction is provided, the Education and Training Act of 2020 sets forth certain obligations which must be met.

The Education and Training Act 2020, Sections 55-60 requires that all teaching in state primary and intermediate schools (years 1-8) be secular while the school is open. At the discretion of the school's board, a school may be closed for up to one hour per week (and up to twenty hours in a school year) for religious instruction or observance. The instruction or observances must be conducted by volunteers approved by the school's board.

In the case of other schools, including private schools and state secondary schools (years 9-13), religious instruction may be provided without the above restrictions. However, all schools remain obliged to comply with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Any religious instruction must protect the rights of diverse students and must not discriminate on the basis of religious or ethical belief.

14. Is it mandatory for students to attend religious education or religious observances in their schools?

No. Religious instruction and observance in state primary and intermediate schools occur on an opt in basis, with students only participating if their parents or guardians have expressly elected for them to do so.

In private schools and state secondary schools, students may opt out of religious instruction or observance and schools are required to honor that decision in a non-discriminatory manner.

15. Can students refrain from attending school or scheduled school activities because of their religious beliefs?

By law, children in New Zealand aged between six and sixteen years are required to be enrolled in and attend school unless exempted from doing so (e.g., for home education). If a student does not wish to attend school for religious reasons, he or she must obtain the necessary exemption and have an alternative course of education in place.

A student, alone or through his or her parents, may seek to withdraw from participating in specific activities on the basis of religious grounds. Provided there is a rational link between the religious belief and the activity in question, such requests are likely to be granted. Parents and students should communicate with school leadership to discuss such issues.

16. Can students modify school uniforms because of their religious beliefs?

Schools are not permitted to discriminate against students on the basis of religion or culture.

If a student wishes to modify school uniform requirements for religious or cultural reasons, he or she should generally be permitted to do so. Schools may ask students to provide evidence of a genuine religious or cultural reason for the requested modification. Open communication with school leadership will allow such issues to be addressed.

MILITARY AND PUBLIC SERVICE

17. Is there mandatory military or public service, and if so, are there any religious exemptions?

There has been no mandatory military service in New Zealand since 1972. Military training and public service are entirely voluntary.

RELIGION AND JUSTICE

18. Can I refrain from taking an oath in legal proceedings because of my religious beliefs?

Yes. In New Zealand legal proceedings, including in the preparation of affidavits, a witness or deponent has the option of either taking an oath on the Bible (or other religious text such as the Qur'an) or making a non-religious affirmation.

19. Can judges make decisions based on their religious beliefs?

No. All judicial decisions and duties must be completed without bias or prejudice based on race, sex, religion, or any other grounds. In order for a judge to make fair decisions, they must be independent. A judge's decision must therefore not be influenced by anything other than the applicable law and the evidence presented in the case.

20. Is there any protection for statements made in confidence to religious leaders?

Under Section 58 of the Evidence Act 2006, a person has a privilege in respect of any communication with a minister of religion if the communication was:

- Made in confidence to or by the minister in the minister's capacity as a minister of religion; and
- Made for the purpose of obtaining or receiving religious or spiritual advice, benefit, or comfort.

Under Section 67 of the Evidence Act 2006, a judge may disallow a claim of privilege if satisfied that the communication in question was made for a dishonest purpose or in furtherance of a criminal offence.

RELIGIOUS FREEDOM IN INTERNATIONAL LAW

In addition to local protections for religious freedom in individual countries, there are also different international instruments or legal documents that protect this right. In 1948, the right to freedom of religion and conscience was introduced by the Universal Declaration of Human Rights. Since then, there have been different covenants and conventions that establish and develop this right at the international level.

What protections do I receive under international law?

International instruments establish that all people are equal before the law, regardless of their religion. These laws also state that no one may be discriminated against on the basis of religion. This is an offense against human dignity and is condemned as a violation of human rights and fundamental freedoms.

What freedoms do these international instruments include?

- **Freedom of thought, conscience, and religion.**

This freedom includes freedom of thought on all matters, freedom to hold beliefs, freedom of commitment to religion or belief, and freedom of personal conviction. It does not allow any limitations on the freedom to have or adopt a religion or belief of one's choice. No one can be compelled to reveal his or her thoughts or adherence to a religion or belief.

- **Freedom to change religion or beliefs.**

All people have the right to leave their own religion or belief and to adopt another, or to remain without any belief at all. The use of physical force, penal sanctions, policies, or practices to force a person to adopt, change, or maintain a certain religion or belief is prohibited.

- **The freedom to manifest and profess your own religion or beliefs, individually and collectively, both publicly and privately.**

Everyone enjoys the right to peacefully manifest and share one's religion or belief with others without being subject to the approval of the state or another religious community. This right is not limited to members of registered religious communities. Moreover, registration should not be compulsory for religious communities or organizations in order to enjoy their rights.

- **The freedom to manifest your religion through teaching, practice, worship, and observance.**

The freedom to manifest religion or belief in worship, observance, practice, and teaching includes a broad range of acts:

- Worship and observance extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest.
- Practice and teaching of religion or belief include acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests, and teachers; the freedom to establish seminaries or religious schools; and the freedom to prepare and distribute religious texts or publications.

- **The freedom of parents and guardians to have their children or pupils receive religious or moral education that is in accordance with their own convictions.**

Children enjoy the right to have access to religious education in accordance with the wishes, religious beliefs, or convictions of their parents or guardians. Likewise, children should not be forced to receive religious instruction that is contrary to the wishes of their parents or guardians. In accordance with the principle of the best interests of the child, the State should encourage an atmosphere of religious tolerance in schools and promote respect for pluralism and religious diversity.

Are there any limitations to these freedoms?

Yes. There are some limitations that are given by law, and their purpose is to protect public safety, order, health, morals, and the fundamental rights and freedoms of others. However, restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.

FINDING COMMON GROUND

As people, we have the freedom to choose, share, and live what we believe. We generally hold our religious freedoms and beliefs dear as guiding principles in our lives. Just as we value our own religion and beliefs, we should highly value all people's rights to religious freedom and belief. Knowing the importance of these freedoms, how can we share the principles of freedom of religion in our communities? Is there a way to find common ground when we interact with people holding different beliefs?

The following strategies may allow you to find common ground in your community:

BECOME INFORMED

Before you can protect the religious beliefs of yourself or others, it is important to be informed and understand the rights and basic principles of freedom of religion. This brochure contains some relevant information with regards to your rights and the basics of freedom of religion. Seek to stay aware of changes in religious freedoms by watching developments that affect these freedoms in the news.

LISTEN TO ALL SIDES

Listen and show concern for other people's religions and sincere beliefs. Even if you disagree with the beliefs, or convictions of another, seek to understand and to be respectful of his or her perspective. People's words, beliefs and actions are influenced by many factors. You should be sensitive to the feelings of others as you explain and pursue your positions, and you should ask that others not be offended by your sincere religious beliefs.

PRACTICE CIVILITY

In order to live as a community with differences of opinion and beliefs, it is critical to know how to debate and not just what to debate. Your communications on controversial topics should not be contentious. All people should treat one another with civility and respect while striving to be accurate and fair. When your positions do not prevail, you should accept unfavorable results graciously and civilly. Remember to reject persecution of any kind, including persecution based on race, ethnicity, religious belief or nonbelief, and differences in sexual orientation.

PROMOTE TOLERANCE

People must be able to peaceably live together while having differences. To live peaceably does not mean you need to abandon your positions; rather, it means you should strive to live peacefully with others who do not share your values or accept the teachings upon which they are based. Strive to teach values and standards of behavior to those around you without having them distance themselves or show disrespect to any who are different.

BUILD TRUSTED RELATIONSHIPS

Build trusted relationships in your community among people of diverse opinions. You will be better able to protect the rights of others in a way that benefits everyone as you get to know more people and as those people come to understand each other's beliefs. Concentrate on what you have in common with your neighbors and fellow citizens. Then, as you work together, speak out for religion and the importance of religious freedom.

