

Queensland Veterans' Council Bill 2021

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by The Honourable Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, the Honourable Shannon Fentiman, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, make this statement of compatibility with respect to amendments to be moved during consideration in detail (ACiDs) of the Queensland Veterans' Council Bill 2021 (the Bill).

In my opinion, the ACiDS for the Bill are compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill will establish the Queensland Veterans' Council (QVC) as a new statutory body with three areas of responsibility: trustee of Anzac Square under the *Land Act 1994* and the ongoing management and operation of Anzac Square; the functions of the Board of Trustees under the *Anzac Day Act 1995*; and providing advice to government on veterans' matters.

The Bill provides for the membership of the QVC (clause 13) and the establishment of a Veterans' Reference Group (clause 34).

Membership of the QVC

Clause 13 of the Bill provides that the membership of the QVC comprises:

- a) the chief executive of the department in which the Act is administered or an employee of that department nominated by the chief executive;
- b) the chief executive officer of Brisbane City Council (BCC) or an employee of BCC nominated by the chief executive officer;

- c) no more than six other members appointed by the Governor in Council ('appointed members') comprising
- not more than two persons nominated by a veterans' organisation under section 14; and
 - not more than four persons nominated by the Minister.

Clause 13(3) of the Bill provides that, the Minister, in nominating a person for appointment, must be satisfied that the person has the qualifications or experience in at least one of the following areas: corporate governance, business or financial management; heritage conservation; or another area the Minister considers relevant or necessary to support the QVC in the performance of its functions.

The objective of the ACiDs is to amend clause 13 to provide that four of the six appointed members must be veterans or members of the veterans' community.

Establishment of the Veterans' Reference Group

Clause 34 of the Bill establishes the Veterans' Reference Group to support the QVC in the performance of its functions relating to providing advice to government on veterans' matters and supporting consultation with the Queensland veterans' community.

The objective of the ACiDs is to amend clause 34 to mandate that the Minister must establish a Veterans' Reference Group.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019 (Qld)*)

In my opinion, the human right relevant to the ACiDs is taking part in public life (section 23).

Taking part in public life

The ACiDs will amend clause 13 of the Bill to provide that, of the six appointed members of the QVC, at least four must be veterans or members of the veterans' community. This provision may, if enacted, limit or otherwise affect the right to take part in public life. However, as outlined in the analysis below, any limitation of this right is considered reasonable, demonstrably justified and proportionate.

The ACiDs also mandate the establishment of the Veterans' Reference Group. This amendment will ensure that a Veterans' Reference Group is established and promote the ability of members of the veterans' community to participate in public life through membership of the Veterans' Reference Group. In this way, the amendment enhances the right protected by section 23 of the HR Act.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

Membership of the QVC

(a) the nature of the right

Section 23 of the HR Act provides that every person in Queensland has the right and opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives. The right protected by section 23 of the HR Act includes a right for every eligible person to have access on general terms of equality, to the public service and to public office.

The right protected by section 23 of the HR Act has been interpreted by the United Nations Human Rights Committee as providing a right of access, on general terms of equality, to positions in public office.

The right interacts with the general right to equality (section 15 of the HR Act). To ensure access to positions in public office on general terms of equality, the criteria and process of appointment, promotion, suspension and dismissal must be objective and reasonable. In relation to this right, it is of particular importance to ensure that persons do not suffer discrimination in the exercise of their rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The right in section 23 is limited to 'eligible persons'. This internal limitation provides for the prescribing of matters such as eligibility for membership to a body.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Clause 13 of the Bill provides that the QVC will have a membership of up to eight people with no more than six members appointed by the Governor in Council ('appointed members') and two ex-officio members. The Bill provides that two of the 'appointed members' are nominated by veterans' organisations and four other members are nominated by the Minister.

The proposed amendment to clause 13 will provide that four of the six appointed members must be veterans or members of the veterans' community. Consistent with the current provisions in the Bill, two of the four members will be nominated by veterans' organisations in accordance with clause 14. If enacted, the ACiDs will specifically prescribe a minimum representation of veterans and members of the veterans' community on the QVC.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The proposed amendment ensures that there must be at least four veterans or members of the veterans' community appointed as appointed members of the QVC. That is, veterans or members of the veterans' community will comprise 50 per cent of the membership of the QVC. This amendment potentially limits the opportunity of non-veterans to be appointed to the QVC.

For effective performance, the QVC requires members that collectively provide the QVC with the requisite skill set to perform its functions and meet the public reporting and accountability obligations. The prescribed membership of the QVC in the Bill considers the diverse functions and responsibilities imposed on the statutory body, the required skill set of the QVC members to support its range of functions, and the need for the QVC to remain efficient.

The QVC's functions relate to veterans' matters and, if established, the QVC will strengthen and modernise the legislative framework for veterans' matters in Queensland. Currently, the

Bill does not limit the number of veterans or members of the veterans' community that may be appointed to the six appointed member positions of the QVC. The proposed amendments ensure a minimum representation of veterans and members of the veterans' community on the QVC to ensure the veterans' voice is heard in the important functions of the QVC. In addition, the proposed amendments do not prevent individuals from the broader Queensland community to also be nominated for membership of the QVC.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The proposed amendments to clause 13 are considered the least restrictive way of achieving the policy intent of ensuring that veterans or members of the veterans' community comprise 50 per cent of the membership of the QVC.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

As outlined above, if enacted, at least 50 per cent of the membership of the QVC will be veterans or representatives of the veterans' community.

It is essential for the effective performance of the QVC that members of the QVC have the appropriate knowledge, skills and expertise in veterans' matters. In addition, as a statutory body, it is essential that members have the appropriate skills and expertise to support the good governance of the QVC.

The proposed amendments ensure that members of the QVC have the necessary governance skills and experience while mandating a minimum representation from veterans and members of the veterans' community to ensure veterans and the veterans' community have an equal voice on the QVC.

Having regard to the functions of the QVC, any limitation of the right, protected by section 23 of the HR Act, for individuals to be appointed to the QVC is reasonable and justified.

(f) any other relevant factor

Nil.

Conclusion

In my opinion, the amendments to be moved during consideration in detail for the Queensland Veterans' Council Bill 2021 are compatible with human rights under the *Human Rights Act 2019* because they limit a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

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