

QUEENSLAND UNIVERSITY OF TECHNOLOGY AMENDMENT Bill 2021

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing

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 Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, make this statement of compatibility with respect to amendments to be moved during consideration in detail to the Queensland University of Technology Amendment Bill 2021 (the Bill).

In my opinion, the amendments to be moved to the Bill are compatible with the human rights protected by the HR Act, and I base my opinion on the reasons outlined in this statement.

Overview of the amendments

The Bill implements governance reforms for the Queensland University of Technology (QUT) by amending the *Queensland University of Technology Act 1998* (QUT Act) to reduce the size of its Council from 22 to 15 members.

As a result of reducing the size in the Council membership, the Bill includes consequential amendments (in clause 12 of the Bill) to enable an ordered transition to the new Council membership, such as provisions to reduce the number of members from certain member classes on the Council, including elected members.

The amendments to be moved to the Bill will clarify a potential unintended consequence and confirm that elected members who are academic staff and professional staff of QUT, whose membership is ceased in accordance with new sections 77 and 78 (inserted by clause 12 of the Bill) are to remain eligible to fill a casual vacancy under section 20A of the QUT Act, during the current term of the relevant class of members on the Council.

Human Rights Issues

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

In my opinion, the human right under the HR Act that is relevant to the amendments to be moved to the Bill is the *right to taking part in public life* under 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*)

Right to taking part in public life (section 23 of the HR Act)

(a) *the nature of the right*

The nature of the *right to taking part in public life* affirms the right of all persons, without discrimination, to participate in the conduct of public affairs, including the right to vote and be elected at periodic State and Local government elections. It ensures all persons have the opportunity to contribute to the political process and public governance, directly or through freely chosen representatives. This also extends to being part of community consultations with government, attending local council meetings, participating in public debate, and taking part in referendums or other electoral processes which are all important aspects of taking part in public life.

The *right* has been interpreted by the United Nations Human Rights Committee as providing a right of access, on general terms of equality, to positions in the public service and in public office¹.

The *right* provides that the criteria and processes for appointment, promotion, suspension and dismissal within the public service must be objective and reasonable, and non-discriminatory. In relation to this right, it is of particular importance to ensure that persons do not face 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 status.

This *right* 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*

The amendments to the Bill inserts a new section 82 to clarify that elected academic and professional staff members who cease to be a member (ceased members) in accordance with Clause 12 of the Bill (under new sections 77 and 78) may continue to be eligible to be appointed as a member if there is a subsequent casual vacancy within that class of membership under section 20A of the QUT Act, during the current term of the relevant class of member of the Council.

The amendments ensure the ceased member will continue to be eligible to be appointed as a member to Council in the event a casual vacancy arises and promotes the person’s right to taking part in public life.

¹ United Nations Human Rights Committee, General Comment No.25

(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*

Clarifying that ceased members will continue to be eligible for appointment under section 20A of the QUT Act to fill a casual vacancy during the current Council term does not impose any limitation to human rights.

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

Not applicable.

(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*

Not applicable.

It is considered that the amendments to the Bill promote the *right to taking part in public life*, by ensuring a ceased member will continue to be eligible for appointment under section 20A of the QUT Act should a casual vacancy arise in the relevant class of membership.

(f) *any other relevant factors*

Nil.

Conclusion

In my opinion, the amendments to be moved to the Queensland University of Technology Amendment Bill 2021 are compatible with human rights under the *Human Rights Act 2019* because they do not limit human rights.

GRACE GRACE MP
MINISTER FOR EDUCATION
MINISTER FOR INDUSTRIAL RELATIONS
AND MINISTER FOR RACING