

Industrial Relations and Other Legislation Amendment Bill 2022

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, Grace Grace, 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 of the Industrial Relations and Other Legislation Amendment Bill 2022 (the Bill).

In my opinion, the amendments to be moved during consideration in detail (ACiDs) of 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 amendments

Amendments relating to representation by agents

The proposed ACiDs respond, in part, to Recommendation 2 of the Education, Employment and Training Committee (the Committee) Report No. 22, following its inquiry into the Bill.

Proposed ACiDs to the *Industrial Relations Act 2016* (IR Act) clarify who can appear as an agent to assist a person or party in proceedings conducted by the Queensland Industrial Relations Commission (the Commission), the Industrial Court of Queensland (the Court), the Court of Appeal, an Industrial Magistrates Court, or the industrial registrar. The proposed amendments confirm the underlying policy intent of these provisions, and align with the policy objectives of the Bill.

The proposed amendments provide a balanced solution to stakeholder concerns, while setting out a clear framework for proceedings about the considerations necessary when determining if leave should be granted to appoint an agent.

Amendment relating to paid domestic and family violence leave

The ACiDs also propose to provide casual workers access to paid domestic and family violence (DFV) leave. This proposed amendment ensures all workers under the IR Act can access paid DFV leave irrespective of whether they are full-time, part-time or casual employees, and aligns

with similar proposed amendments recently introduced by the Federal Government to provide casual workers with paid DFV leave under the *Fair Work Act 2009* (Cth).

Amendment to authorise competition legislation

The ACiDs propose to insert a new section into proposed Chapter 10A to ensure independent courier provisions in new Chapter 10A are authorised for the purpose of the *Competition and Consumer Act 2010* (Cth) and the Competition Code of Queensland.

Amendments relating to the Associations Incorporation Act 1981

In addition, the ACiDs include minor clarifying amendments to the amendments to the *Associations Incorporation Act 1981* in the Bill, to clarify that all applications for incorporation must include a statutory declaration stating whether the association has an industrial purpose.

Human Rights Issues

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

In my opinion, the human rights engaged by the ACiDs are:

- Recognition and equality before the law (section 15).
- Protection of families and children (section 26).
- Fair hearing (section 31).

Recognition and equality before the law (section 15)

Section 15 of the HR Act provides that laws and policies must be applied equally, and that courts and tribunals treat all people equally when applying the law.

Currently, a person or party can appoint an agent to represent them in an industrial matter by filing the approved form with the Industrial Registry.

The proposed amendment to clarify representation by agents does not remove or limit this right of representation within the scope of the existing policy intent. Instead, the proposed amendment provides necessary oversight during proceedings to ensure agents are acting in the interests of the person, will be of assistance to the relevant industrial tribunal in the proceeding, and are not collecting a fee for their assistance. A person or party is entitled to have a legal representative within the existing industrial relations framework. This will not change. The proposed amendments clarify that the agent provisions cannot be used to circumvent the legal representation requirements.

Protection of families and children (Section 26)

Section 26 of the HR Act provides protections for families as a fundamental unit of society, and provides for the protection of children from discrimination, and for the prioritisation of their interests.

The right to protection of families and children is promoted by the proposed amendment to extend paid domestic family and violence leave as it will remove a barrier for those families escaping domestic violence. The proposed amendment ensures that people experiencing domestic violence can access paid leave entitlements irrespective of whether their employment arrangement is permanent, full-time, part-time, or casual.

Right to a Fair Hearing (section 31)

Section 31 of the HR Act provides a right to a fair hearing, ensuring a person is entitled to have their civil proceeding decided by a ‘competent, independent and impartial court or tribunal’ following a fair public hearing.

The proposed amendments related to agents engages with this right by clarifying the appointment of agents in proceedings for industrial matters. There have been instances identified where agents appointed to assist parties have engaged in undesirable conduct that has impacted both how a person’s industrial matter has been conducted to the detriment of the worker, and also on the relevant industrial tribunal’s duty to efficiently manage and run proceedings.

The proposed amendment will address this issue by allowing the relevant industrial tribunal to examine whether the person can assist the person or party, or the proceedings, by considering factors such as the complexity of the case, or whether individual to be represented has a disability.

The proposed amendment also promotes the right to a fair hearing by removing ambiguity and promoting consistency between representatives, agents and lawyers.

Conclusion

In my opinion, the amendments to be moved during consideration in detail to the Industrial Relations and Other Legislation Amendment Bill 2022 are compatible with human rights under the *Human Rights Act 2019* as they do not limit an individual’s human rights.

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

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