

Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022

Explanatory Notes

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

Short title

The short title of the Bill is the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022 (the Bill).

Policy objectives and the reasons for them

The objectives of the amendments are to ensure the *Public Guardian Act 2014* (PG Act) can effectively operate with the *Public Sector Act 2022* (PS Act) to provide community visitors appointed under the PG Act a right to request a review, or a right to be reviewed, for consideration of being converted to permanent employment.

Under the PS Act, a non-permanent public sector employee can ask for a review of their status of employment after being continuously employed for at least one year. If an employee has been continuously employed on a non-permanent basis for at least two years, the chief executive must undertake a review of the basis of employment.

Section 112(3) of the PS Act clarifies that if a chief executive of a public sector employee is permitted or required to offer to convert the employee's employment to a permanent basis under the PS Act, the employee may be employed on a permanent basis, despite anything in another Act which provides for their basis of employment. Despite this provision, the express requirement of section 113(1) of the PG Act that a

community visitor can only be appointed to office for a term of not greater than three years creates uncertainty about the interaction between the PS Act and PG Act.

The amendments will remove this time limitation which operates as a significant barrier to the ability of the Public Guardian to convert community visitors from non-permanent to permanent employment from the 1 March 2023, the commencement of the PS Act.

Achievement of policy objectives

The objectives will be achieved by amending the PG Act to:

- remove the three-year cap on appointment of community visitors under section 113(1);
- retain the ability for the Public Guardian to appoint community visitors on a casual basis under section 109; and
- provide a clear legislative basis for the temporary and permanent appointment of community visitors on a full-time or part-time basis.

Alternative ways of achieving policy objectives

There is no alternative way to achieve the policy objectives other than by legislative amendment.

Without legislative change to enable the effective interaction between the PG Act and the PS Act, there is no certainty for the Public Guardian or for community visitors about the operation of the conversion regime.

Estimated cost for government implementation

As noted in the Explanatory Notes for the PS Act, as a general premise, costs associated with application of conversion rights will be absorbed by the existing resource allocation for each impacted agency or entity.

Consistency with fundamental legislative principles

The amendments proposed to the Bill are consistent with the fundamental legislative principles in the *Legislative Standards Act 1992*.

The amendments will provide the certainty required under legislation to ensure community visitors appointed under the PG Act will have a right to request a review, or a right to be reviewed, for consideration of being converted from non-permanent employment, consistent with other public sector employees under the PS Act.

Consultation

In developing the amendments, consultation has occurred with the Office of the Public Guardian and Together Queensland.

Notes on provisions

Amendment 1 inserts into the Bill new part 7A (clauses 81A to 81D).

Clause 81A states that new part 7A amends the PG Act.

Clause 81B replaces the chapter 5, part 4 heading to better reflect the contents of the part after the making of the amendments to the Act.

Clause 81C amends section 109 (Appointment) to provide that the basis of employment of a community visitor appointed by the public guardian under the section may be permanent, temporary for a fixed term or casual. Further, employment which is permanent or temporary in nature may be made on a full-time or part-time basis.

This amendment will align the basis of employment of community visitors in the PG Act with the PS Act.

Clause 81D amends section 113 (Duration of appointment as community visitor) to remove the limitation on the appointment of a community visitor to no more than three years. As a result of this omission, a range of flow-on consequential and renumbering changes are also made to section 113.

Amendment 2 is a consequential amendment, inserting in the long title of the Bill a reference to the PG Act to reflect the Bill, when enacted, will amend the PG Act.