

Crime and Corruption and Other Legislation Amendment Bill 2024

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice 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, Yvette D'Ath MP, Attorney-General and Minister for Justice 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 of the Crime and Corruption and Other Legislation Amendment Bill 2024 (the Bill).

In my opinion, the amendments 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

Minor technical amendments

Amendments 1 to 3 correct technical errors in the Bill relating to the amendment of the *Crime and Corruption Act 2001* and do not engage or limit any human rights.

Amendments to *Integrity Act 2009*

Amendments 4 and 5 amend the *Integrity Act 2009* (Integrity Act) to extend parts of the lobbying framework under the Integrity Act to opposition spokespersons and opposition assistant spokespersons (colloquially known as 'Shadow Ministers' and 'Shadow Assistant Ministers'), to meet public expectations of visibility over lobbying activity and ensure decisions and policies made by political parties are free from undue influence.

Under the lobbying framework in the Integrity Act, a registered lobbyist must comply with the Lobbyists Code of Conduct, which contains a requirement for lobbyists to disclose monthly, the contact (meetings) they have with government and opposition representatives during the previous month.

This framework currently applies to the Premier, Ministers and Assistant Ministers, and their staff members. However, for opposition representatives, it only applies to the Leader and Deputy Leader of the Opposition, and staff members in the Office of the Leader of the Opposition. It does not apply to an opposition spokesperson or opposition assistant spokesperson.

The amendments will complement changes to Legislative Assembly sessional orders and *The Queensland Opposition Handbook* in March 2024, to require the monthly publication of opposition spokesperson and Deputy Leader of the Opposition diary extracts (respectively) outlining meetings with external parties, including the date, name of the organisation or person and purpose of the meeting. Those changes brought opposition spokespersons and the Deputy Leader of the Opposition into line with the requirements for the monthly publication of diary extracts for government ministers, assistant ministers and their chiefs of staff under *The Queensland Ministerial Handbook*, and the Leader of the Opposition and chief of staff under *The Queensland Opposition Handbook*.

Human Rights Issues

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

Disclosure of lobbying activity on the lobbying register

Sections 66L-66N of the Integrity Act provide for the establishment and updating of a lobbying register, which must be published on the website of the Office of the Queensland Integrity Commissioner.

The Lobbyists Code of Conduct, made under section 55 of the Integrity Act, requires a registered lobbyist to disclose to the Integrity Commissioner each month, via an update to the Lobbying Register, details of contact (meetings) with a government representative or opposition representative (drawing on definitions used in the Integrity Act). Compliance with the Lobbyists Code of Conduct is mandatory (s55(6)).

The amendments will result in the information registered lobbyists are required to disclose in the Lobbying Register being expanded to include lobbying activity involving opposition spokespersons and opposition assistant spokespersons. This contemplates the collection and public disclosure of personal information about a registered lobbyist, which engages section 25(a) of the HR Act, i.e. the right not to have one's privacy unlawfully or arbitrarily interfered with.

The Integrity Commissioner is already required to keep a register of registered lobbyists, and registered lobbyists are already required to provide lobbying activity with government and opposition representatives as currently defined. Hence, any burden on this right will be incremental. The burden on the right to privacy can be readily outweighed by the importance of the purpose of the amendments to better promote transparency in lobbying activities. As the interference with privacy is proportionate, it is not arbitrary. Consequently, the amendments engage, but do not limit, the right to privacy in section 25(a) of the HR Act.

Obligations of opposition representatives

Sections 63 and 64 of the Integrity Act prohibit a representative (being a government representative or opposition representative) knowingly permitting an entity to carry out a lobbying activity with the representative in contravention of section 46 (the ban on lobbying activities by unregistered entities) and section 62 (the two-year ban on certain lobbying activities by former representatives) of the Integrity Act.

The amendments will apply these obligations to opposition spokespersons and opposition assistant spokespersons. This does not impose any limit on human rights. In any event, even if these provisions did limit a human right (for example by imposing a minor limit on freedom of expression), that limit would be justified as a means of making more effective, the prohibitions in section 46 and section 62 of the Integrity Act.

Information disclosure by opposition representatives

Sections 65-66B of the Integrity Act impose mandatory requirements on lobbyists, certain individuals, and representatives to provide information to the Integrity Commissioner. Section 66D enables the Integrity Commissioner to require a person to give information to the Integrity Commissioner relating to a suspicion that a registered lobbyist may be disqualified from being a registered lobbyist or may have failed to comply with a condition of registration, a code of conduct or directive, or certain provisions of the Act. The person must comply unless the person has a reasonable excuse. Under section 66E, the Integrity Commissioner can require the information be given by statutory declaration.

The amendments will apply the requirements in sections 65-66B, 66D and 66E to opposition spokespersons and opposition assistant spokespersons.

The amendments engage the following rights in the HR Act:

- the right to freedom of expression in section 21(2)
- the right not to have one's privacy unlawfully or arbitrarily interfered with in section 25(a)
- the right not to be compelled to testify against oneself or to confess guilt in section 32(2)(k).

By requiring a person to provide information, the amendments could limit a person's freedom of expression (s21(2)), which may include a right not to impart information and a person's right not to have their privacy unlawfully or arbitrarily interfered with (s25(a)). Whether a person's right not to be compelled to testify against oneself or to confess guilt (s32(2)(k)) will be engaged or limited will depend on whether it is a reasonable excuse to withhold information on the basis of privilege against self-incrimination.

As these requirements apply already to lobbyists, any burden on these rights will be incremental.

The purpose of the information disclosure requirements is to enable the Integrity Commissioner to effectively audit lobbyist records and monitor compliance with the Integrity Act. The information disclosure requirements give the Integrity Commissioner some capacity to consider whether an entity has fulfilled, or otherwise the requirements of registration and the Integrity Act.

The Integrity Commissioner has no further power to compel information, and it is not an offence to refuse to provide information (although such refusal may be something the Integrity Commissioner can consider when determining registration status).

Entities are entitled to refuse to give information on ‘reasonable grounds’, which includes that the information may incriminate the person. There is no intention that an entity should be required to provide information to the Information Commissioner that may incriminate the entity, which was explained in the Explanatory Notes for the Integrity and Other Legislation Amendment Bill 2023.

The overarching purpose of the Integrity Act is to regulate the action of lobbying ‘so that lobbying is conducted in accordance with the public expectations of transparency and integrity.’ The amendments do not alter this purpose. The ability for the Integrity Commissioner to require information from an opposition spokesperson or opposition assistant spokesperson is to determine that the lobbying activity is being undertaken in accordance with the Act and with lobbyist registration requirements, is essential if the Integrity Commissioner is to uphold this purpose.

Conclusion

In my opinion, the amendments to be moved during in consideration in detail are compatible with human rights under the HR Act because they do not limit human rights.

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ATTORNEY-GENERAL AND MINISTER FOR JUSTICE
MINISTER FOR THE PREVENTION OF DOMESTIC AND FAMILY VIOLENCE

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