

Disaster Management and Other Legislation Amendment Bill 2024

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Community Safety and Legal Affairs Committee
Parliament House
George Street
Brisbane Qld 4001

By email: cslac@parliament.qld.gov.au

Dear Committee

Inquiry into Disaster Management and Other Legislation Amendment Bill 2024

Thank you for the opportunity to provide input to the Committee's Inquiry on the Disaster Management and Other Legislation Amendment Bill 2024 (the **Bill**).

Due to multiple competing priorities, and the short time-frame for submissions, the Commission has not had the opportunity to review the Bill in detail. These comments are limited, therefore, to the matters addressed in this letter and should not be taken to be endorsement or otherwise of other aspects of the Bill.

However, as a matter of principle, we have concerns with embedding in legislation specific, mandatory, requirements for appointment to a range of senior roles in a public body, such as those introduced through the Bill.¹ This is because such mandatory requirements may impliedly override provisions of the *Anti-Discrimination Act 1991*, and, depending on the particular role, may not be compatible with the rights to equality and to take part in public life protected under the *Human Rights Act 2019*, ss 15 and 23.²

Both the *Anti-Discrimination Act* and interpretation of the relevant rights under the *Human Rights Act* recognise that there may be legitimate reasons to impose specific requirements for particular positions, even where those requirements may have an otherwise discriminatory effect on people with protected attributes.³ However, any

¹ Including amendments to appointment criteria in the *Fire and Emergency Services Act 1990* through cl 28 — inserting s 7C(2) (Chief fire officer) and s 7K(2) (Deputy commissioner); and cl 34 — inserting s 25(3) (executive officers and senior officers in Queensland Fire and Rescue).

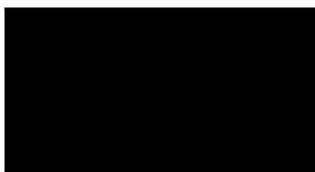
² As discussed, in relation to the *Human Rights Act 2019*, in the *Statement of Compatibility* for the Bill at pp 3-6.

³ See, eg, *Anti-Discrimination Act 1991*, s 25 (Genuine occupational requirements); *Human Rights Act 2019*, s 13 (Human rights may be limited).

such requirement must directly and objectively relate to the *specific* role and that *particular* role's essential and inherent requirements.⁴

By embedding specific requirements in legislation for a range of roles there is a risk of entrenching a disconnect between the legislative requirements and the actual requirements of particular roles over time, in a way that is not compatible with the right to equality and the right to take part in public life. As noted in the Statement of Compatibility, a less restrictive way — and the usual way — of achieving the objectives sought is to establish genuine occupational qualifications for specific roles at the time of appointment. Any departure from this standard approach requires further justification.

Yours sincerely



Scott McDougall
Queensland Human Rights Commissioner

⁴ See, eg, *Walsh v St Vincent de Paul Society Qld* [2007] QADT 10, [65]. See further, in relation to the understanding of discrimination under international labour law, Committee of Experts on the Application of Conventions and Recommendations, *Giving Globalization a Human Face* (General Survey, Report III (Part 1B), 101st ILC Session, 2012), [827]–[831].