

Integrity and Other Legislation Amendment Bill 2022

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Integrity and Other Legislation Amendment Bill 2022

Submissions of
Together Queensland



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Introduction

1. Together is one of the largest public sector unions in Queensland, representing over 28, 000 workers from across the public sector in health, education, public service departments and statutory authorities, as well as workers in the private sector. Together has consistently advocated for a fairer industrial relations system in the state, and our members have been at the forefront of improving the conditions of Queensland public sector workers and the services they deliver.
2. Together Queensland:
 - a. is an Industrial Organisation of Employees under the *Industrial Relations Act 2016* (Qld).
 - b. is a counterpart of the Australian Municipal, Administrative, Clerical and Services Union, Queensland Together Branch (Queensland Together Branch of the ASU). The ASU is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth).
3. Further, Together Queensland is affiliated with the peak union body, the Queensland Council of Unions ('QCU'). Together has had the benefit of seeing a draft of the submission made by the QCU to the Committee, and supports that submission unless otherwise stated.
4. Together welcomes the opportunity to make submissions in relation to the industrial ramifications of the *Integrity and other Legislation Amendment Bill 2022* (the Integrity Bill).

Government response to Coaldrake Review

5. Together notes that the implementation, 'lock, stock and barrel', of the Coaldrake Report is in its infancy and that there are significant ongoing issues of culture, as well as other integrity reforms referenced by Professor Coaldrake that will require additional action by the State Government.
6. Together's capacity to meaningfully respond to this Bill is hampered by a lack of clarity regarding the full picture of the Government's position on the Coaldrake report and what is meant by a "lock stock and barrel" implementation.

Amendments to the *Auditor-General Act 2009*

Appointment of the staff of the Audit Office

7. The Bill amends the Auditor-General Act 2009 to provide that "Staff of the audit office will be appointed under the Auditor-General Act 2009 and not the proposed Public Sector Act 2022" and the preservation of rights of public service officers.
8. Together supports the independence of the Auditor-General.
9. In particular the Union supports the independent exercise of the Auditor-General's statutory functions. However, it does not follow that in order to be independent the staff of the Audit office should not receive the same public sector conditions provided to other public sector staff and recommended by the Bridgeman Report.
10. The Union's position in consultation for these Bills has supported, in principle, that an entity may be excluded from the coverage of the Act as a public sector entity where the inclusion of the agency would:
 - a. create an untenable conflict with employment arrangements under establishing legislation;
 - b. be inappropriate given the nature of the entity;
 - c. undermine the entity's integrity functions; or
 - d. undermine the entity's charity PBI status;

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11. However, the Union has sought that these exclusionary principles be applied in the following way:
 - a. The above exclusionary principles are applied narrowing and strictly and agencies are excluded only where that is genuinely required;
 - b. That those agencies which are excluded have public sector employment conditions and standards applied through other mechanisms such as their establishing Act; or through the negotiation of an appropriate industrial instrument;
 - c. That the public sector conditions and standards applied are the same or equivalent to those which would be applied were they considered to be a public sector entity or public service office to the greatest extent practicable and are only reduced where this is genuinely required to give effect to those exclusionary principles.
12. New section 8C (Application of provisions of Public Sector Act 2022) provides that a regulation may apply particular provisions of the Public Sector Act 2022, including directives made under that Act, to the audit office, as well as how the regulation applies, its scope and consultation requirements. Before a regulation can be recommended to the Governor in Council, the Minister must consult with the Auditor-General about it. There is no corresponding requirement for consultation with the staff of the audit office or the Union in relation to this instrument which will set conditions of employment and there have been no commitments made by the Auditor-General about the application of provisions or directives.
13. Together notes that the provisions have been modelled on transitional provisions for the establishment of the Office of the Ombudsman, however the Ombudsman applies public sector conditions including directives through certified agreement provisions negotiated with the Union.
14. New section 27 (Secondment of public service employees) provides that a public service employee may be seconded to the audit office and taken to be a member of the staff of the audit office and that the *Public Sector Act 2022* does not apply to the secondee. There appear to be no protection for a public service employee from being seconded without their agreement to a position with reduced conditions and entitlements.
15. Together strongly prefers the arrangements provided for other independent statutory offices like the Integrity Office which strikes a better balance between independence and fairness. Together seeks for equivalent public sector conditions to be applied to staff of the Audit Office.

Amendments to the *Integrity Act 2009*

Establishment of the Integrity Office and appointment of staff

16. Together Queensland supports the proposed model of the creation of the Integrity Office and the employment of staff under the *Public Sector Act 2022*, along with the amendments to the *Integrity Act 2009* which are to apply, despite the provisions of the Public Sector Act, and provide for the independence of the Integrity Commissioner and Integrity Officers from direction from outside the Integrity Office.
17. Together also supports the provisions of the Public Sector Bill which also provide for independence of Integrity Commissioner through the non-application of provisions relating to public sector reviews and the Minister's functions under the Public Sector Bill but which apply the provisions relating to equity and diversity.
18. These provisions strike a balance between the appropriate independence of the Integrity Office, the Integrity Commissioner and integrity officers while retaining the rights and entitlements and employment framework appropriate to a public sector entity.