

26 May 2014

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sir

Re: *Criminal Law Amendment Bill 2014*

I write in response to the Committee's invitation to provide written submissions on the above mentioned Bill. I provide the following comments, observations and suggestions for the Committee's consideration.

1. *Amendment to Acts Interpretation Act 1954*

The Bill proposes to amend the *Acts Interpretation Act 1954* (Qld) (AIA Qld) by including new sections 34A and 34B to allow chairs and deputy chairs of Government tribunals and boards to choose their own preferred position title "*irrespective of what title is used in an Act.*"¹ The Explanatory Notes to the Bill advise that the amendment is based on section 18B of the Commonwealth *Acts Interpretation Act 1901* (AIA Clth).²

The proposed amendment, which is intended to have effect for future appointments,³ is being made in recognition of the issues raised by stakeholders arising from the decision to change the position title of "Chairperson" to "Chairman" under the *Crime and Misconduct and Other Legislation Amendment Bill 2014*.⁴ Although the amendment is a welcome necessary step to clarify any potential ambiguity, the question remains whether it would be more appropriate for future Queensland legislation – as a matter of practice – to express chair/deputy chair position titles in gender-neutral terms so as to better enable position holders to then choose the particular designation applicable to their individual circumstances. At the Commonwealth level there are examples of statutes which have been drafted in this manner. For instance, section 7 of the *Infrastructure Australia Act 2008* (Clth) provides as follows:⁵

Constitution

Infrastructure Australia consists of:

- (a) *the Chair; and*
- (b) *11 other members.*

Note: Section 18B of the Acts Interpretation Act 1901 deals with the title of the Chair.

¹ Explanatory Notes to the *Criminal Law Amendment Bill 2014*, p. 1; Queensland Parliamentary Hansard, 8 May 2014, *Criminal Law Amendment Bill*, Introduction, p. 1468

² Explanatory Notes to the *Criminal Law Amendment Bill 2014*, p. 12

³ Queensland Parliamentary Hansard, 7 May 2014, Statement by the Attorney-General, p. 1342

⁴ Ibid, p. 1342

⁵ See: <http://www.austlii.edu.au/au/legis/cth/consol_act/iaa2008293/s7.html>

Another example is the now repealed *Australian Centre for Renewable Energy Act 2010* (Clth), s. 7, which provided as follows:⁶

Membership

The Board consists of the following members:

- (a) *the Chair;*
- (b) *up to 6 other appointed members;*
- (c) *the CEO.*

Note: Section 18B of the Acts Interpretation Act 1901 deals with the title of the Chair.

It should be noted that the above gender-neutral chair position title references were enacted notwithstanding section 23 of the AIA Clth which provides that in any Act “*words importing a gender include every other gender.*” This provision is similar to section 32B of the AIA Qld which provides that in an Act “*words indicating a gender include each other gender.*” As section 23 of the AIA Clth does not impede or prevent the inclusion of gender-neutral chair position titles in Commonwealth legislation, so section 32B of the AIA Qld should not impede or prevent the inclusion of gender-neutral chair/deputy chair position titles as a standard feature in future Queensland legislation.

If the purpose of the proposed amendment is to allow chair/deputy chair position holders to choose their own preferred title irrespective of what title is used in an Act,⁷ then this objective could be more readily facilitated if, as a matter of course, legislative references to chair/deputy chair position titles were drafted in gender-neutral terms. The above cited examples provide a model for how future Queensland legislation could be drafted in reference to gender-neutral chair/deputy chair position titles and illustrate how the link to the proposed new sections 34A and 34B could be made.

2. Amendment to the Queensland Criminal Code – serious animal cruelty

The Bill proposes to amend the Criminal Code to include a new indictable offence of serious animal cruelty carrying a maximum penalty of seven years imprisonment.⁸ There has long been a need for an offence of serious animal cruelty to be established.⁹ The Explanatory Notes to the Bill rightly point out that such offences are abhorrent with the proposed penalty justified given the moral importance of animals and society’s obligation to protect them from suffering.¹⁰

However, the point should also be made that the proposed offence and penalty are necessary to dissuade those with the potential to “graduate” from serious animal cruelty offences to even more serious offences of violence against people. In this respect the animal welfare organisation PETA (People for the Ethical Treatment of Animals) has pointed out:

⁶ See: <http://www.austlii.edu.au/au/legis/cth/num_act/acfrea2010366/s7.html>

⁷ Explanatory Notes to the *Criminal Law Amendment Bill 2014*, p. 1

⁸ *Ibid*, p. 2

⁹ From the departmental correspondence of 20 May 2014 it is noted that a similar offence to that which is proposed was included under the *Criminal and Other Legislation Amendment Bill 2011* but that the Bill lapsed when the Parliament was prorogued (see:

<<https://www.parliament.qld.gov.au/documents/committees/LACSC/2014/CLAB2014/cor-20May2014.pdf>>).

¹⁰ Explanatory Notes to the *Criminal Law Amendment Bill 2014*, pp. 2, 6

Acts of cruelty to animals are not mere indications of a minor personality flaw in the abuser; they are symptomatic of a deep mental disturbance. Research in psychology and criminology shows that people who commit acts of cruelty to animals don't stop there—many of them move on to their fellow humans. "Murderers ... very often start out by killing and torturing animals as kids," says Robert K. Ressler, who developed profiles of serial killers for the Federal Bureau of Investigation (FBI).¹¹

Accordingly, the amendment is necessary not only because it addresses a gap in the current law in dealing with serious offences of cruelty against animals¹² but also to deter those serious animal cruelty offenders with the potential to progress in the scale and severity of their offending to commit acts of violence against people.

I trust that the above comments, observations and suggestions will assist the Committee in its deliberations.

Yours faithfully

Don Willis

¹¹ See: <<http://www.peta.org/issues/companion-animal-issues/companion-animals-factsheets/animal-abuse-human-abuse-partners-crime/>>

¹² Explanatory Notes to the *Criminal Law Amendment Bill 2014*, p. 2