

Office of the Information Commissioner
Queensland

4 September 2013

ID Laws Amendment Bill 2013
Submission 001

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

Dear Sir or Madam

Identification Laws Amendment Bill 2013

I write in response to the Legal Affairs and Community Safety Committee invitation to provide comment on the *Identification Laws Amendment Bill 2013 (Bill)*. Please find enclosed the Office of the Information Commissioner's comment.

This Office is supportive of the approach taken in the Bill. This Office considers this proposed legislation will achieve its intended practical outcome while incorporating a respectful regard for the privacy of the persons concerned.

Yours sincerely



Lemm Ex
A/Privacy Commissioner

Identification Laws Amendment Bill 2013

The Office of the Information Commissioner (**OIC**) was previously consulted on the proposal that is the subject of the *Identification Laws Amendment Bill 2013* because of the privacy implications. The proposal – that in limited circumstances and in limited environments, a person can be required to remove a ‘face covering’ for reasons of confirming identity – has considerations for both the collection and disclosure of ‘personal information’.

At that time, OIC provided advice on how to achieve the intended purpose while maximising privacy protections.

‘Personal information’ is defined in section 12 of the *Information Privacy Act 2009 (IP Act)* as being any information about person that identifies that person. It goes without saying that a person’s face, when used in conjunction with a document incorporating photographic identity (photo ID) - such as a driver licence – will constitute that person’s personal information.

It is a fundamental privacy principle that an agency must only collect information for a purpose directly related to a lawful activity of the agency and that the information is necessary to fulfil that purpose.

It is also a fundamental privacy principle that a person’s personal information should generally not be disclosed to a third party. There are exceptions to this principle, most notably that the disclosure occurs with the consent of the individual or that the disclosure is required or authorised under a law.

OIC acknowledges that practicably, there is no other way of verifying a person’s face against a photo ID other than having a clear unobstructed sighting of the face. The removal of a person’s ‘face covering’ does then potentially disclose the person’s personal information to anyone viewing the uncovering.

OIC notes that respect for the privacy of the individual concerned has been built into the process insofar that:

- There are limits on the circumstances under which a person can be asked to remove a ‘face covering’
- There are limits on who can request the removal of a ‘face covering’
- There are limited circumstances under which a person can legitimately refuse to comply with a request for removal of a ‘face covering’
- If the person so requests, the removal of the face covering must occur in a way that provides the person with reasonable privacy

OIC acknowledges that the last provision – affording reasonable privacy to the person – goes beyond strict compliance with the privacy principles governing disclosure. The Queensland State Government is to be commended for incorporating privacy considerations into this process above that required under the IP Act.

While these are not privacy issues, OIC also acknowledges that the process has built in considerations for gender sensibilities and made special provision for children

aged under 12 years of age. It also requires the uncovering to occur as 'quickly as is practical'.

In summary, OIC considers this legislation minimises the practical aspects of removal of a face covering and in doing so, incorporates respect for the privacy of the persons concerned.