

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

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Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
Brisbane QLD 4000

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

Dear Committee Secretary

Agriculture and Fisheries and Other Legislation Amendment Bill 2023

Thank you for the opportunity to provide feedback on the Agriculture and Fisheries and Other Legislation Amendment Bill 2023 (**Bill**).

As you may be aware, the Queensland Law Society (**QLS**) is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

Due to the number of inquiries and consultations that are taking place at present, and due also to the time of year and availability of our volunteer policy committee members, QLS has been unable to undertake a comprehensive review of this Bill.

From our brief review, however, we consider there are several provisions that the Committee should examine further in the course of this inquiry:

1. Amendments to the *Animal Management (Cats and Dogs) Act 2008* (Qld) to limit appeals from QCAT to the QCATA to questions of law (and not questions of fact) about a destruction order. We refer to page 8 of the Explanatory Notes (**EN**) which outline the reasons for this amendment, one being the considerable time that this process can take. We understand there can be delays proceeding through QCAT and we have called on the Government to provide increased funding for the Tribunal to address this issue. While the length of time to finalise a matter is a consideration, this may not be sufficient to justify the limitation of appeal rights, which are central to our justice system and which may, as noted in the EN at page 21, infringe section 4(3)(b) of the *Legislative Standards Act 1991* (Qld) (**LS Act**).

In relation to QCAT funding, we note page 18 of the EN provide:

“The proposed amendments have the potential to affect the workload of the Queensland Civil and Administrative Tribunal (QCAT), but the net impact is difficult to predict. They would reduce the scope of appeals to its appeals jurisdiction to questions of law only. Clarifying when a destruction order can be made would assist decision makers in local governments and QCAT which may reduce the workload of QCAT. However, this proposal also holds the potential to increase the number of orders made, potentially resulting in additional applications to QCAT, including potentially increasing the number of stay applications being heard by QCAT pending the determination of the destruction order decisions.”

The impact on QCAT of this change should be monitored to ensure appropriate resourcing.

We also note amendments to restrict appeals under the *Fisheries Act 1994* (Qld) (**Fisheries Act**) and raise similar concerns about removing these rights.

2. Amendments to the *Fisheries Act* would require an authority holder to install approved camera monitoring equipment on their boat to record and monitor commercial fishing activities. The footage will be supplied to the Department to be used in independently validating data. We consider the Committee should examine whether there are appropriate measures in place to ensure the data is captured is not misused and that relevant privacy principles are complied with.
3. Amendments to the *Biosecurity Act 2014* (Qld) to remove the requirement for authorised officers to attempt to seek consent before entering a premise and instead, just notifying the occupant. The rationale provided in the EN is that seeking consent before entering a premise can be confusing if consent is not given, but the authorised officers are able to enter anyway (in accordance with their powers under the act). Rather than removing this requirement, we enquire as to whether better information needs to be given to occupants about their rights and obligations. In this regard we note that the *Review of the Queensland Biosecurity Act 2014* referenced the need for further training for authorised officers. We recommend the Committee consider whether, in all of the circumstances, these amendments which allow for entry following notice, only, are justified this breaches section 4(3)(e) of the LS Act.¹
4. Amendments to the *Drugs Misuse Act 1986* (Qld) in clause 126 of the Bill to allow information sharing for law enforcement and regulatory efficiency purpose. These arrangements must have appropriate privacy and other safeguards and not be so broad that the information can be misused or disclosed in a way not contemplated by this Bill.

¹ Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation— (e) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

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- Amendments to section 181 of the *Animal Care and Protection Act 2001* (Qld). The EN raises some concerns about reversing the onus of proof in circumstances where this relates to are strict liability offences. We otherwise have not considered these effects of this particular amendment, however, recommend the Committee specifically reviews this change.

There may be other provision that also infringe upon fundamental legal principles or have unintended consequences. These should be considered in the Committee's examination of this proposed legislation.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED]

Yours faithfully

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Chloé Kopilović
President