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OFFICIAL

6 October 2021

Committee Secretary
State Development and Regional Industries Committee
Parliament House
BRISBANE QLD 4000

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

Dear Committee

**RE: JUSTICE LEGISLATION (COVID-19 EMERGENCY RESPONSE – PERMANENCY)
AMENDMENT BILL 2021**

Thank you for the opportunity to provide submissions on the *Justice Legislation (COVID-19 Emergency Response – Permanency) Amendment Bill 2021*.

The Crime and Corruption Commission ('CCC') supports the proposed amendments to the *Oaths Act 1867* to permanently retain certain modified arrangements for the making of affidavits, statutory declarations and oaths as provided for under the *Justice Legislation (COVID-19 Emergency Response – Documents and Oaths) Regulation 2020* ('DO Regulation'); and

Document Reforms

The CCC supports the permanent retention of those provisions contained in Part 6 of the Bill which allow certain documents to be signed electronically or witnessed over audio visual link, and notes the reforms will allow individuals, businesses and government to continue to use digital technology to meet their needs by making it easier to make and sign important legal documents without the need to be physically present.

The CCC notes that the Bill deliberately adopts a technology-neutral approach with respect to electronic signatures so that the legislation is sufficiently flexible to keep pace with technology and be responsive to emerging issues, including developments in other jurisdictions.

As the Explanatory Memorandum identifies, the failure to prescribe appropriate methods of electronic signatures presents significant risks as there is greater potential

for electronic signatures to be used fraudulently. The CCC submits that the Committee reconsider its position and implement a similar three-step criteria to the one adopted in the *Electronic Transactions (Queensland) Act 2001*, namely:

1. The signature identifies a person and indicates their intention (e.g. providing approval via an email);
2. The signature uses digital code and encryption technology to verify the contents of a digital document; and
3. The person receiving the document consents to receiving a signature in electronic form.

Given the nature of the documents and the potential ramifications of such documents being signed fraudulently, the CCC submits that a criteria similar to the above be implemented to mitigate those risks.

Modification of Crime and Corruption Act 2001 ('CC Act')

On 4 May 2021, the CCC sent a submission to the Attorney General and Minister for Justice in response to the *Justice Legislation (COVID-19 Emergency Response – Proceedings and Other Matters) Regulation 2020* ('Proceedings Regulation').

On that occasion, the CCC submitted that it supported the permanent retention of provisions 8 and 9 of the Proceedings Regulation which permitted attendance notices to be electronically signed and served via email, and hearings to be conducted remotely through the use of audio-visual links or audio links. Furthermore, the CCC submitted that these amendments should not be considered as part of broader policy and legislative projects, but rather should be addressed in the aforementioned Bill.

The CCC notes that provisions 8 and 9 of the Proceedings Regulation have not been addressed in the Bill and understands that they will be considered at a later time as part of a broader policy and legislative project.

The CCC continues to support the permanent retention of provisions 8 and 9 given their application beyond the COVID-19 environment, and potential efficiencies which arise from their continuation. It is submitted that these amendments form part of this review rather than a later project to ensure consistency and timely implementation.

The CCC does not wish to make any comment on the balance of the provisions as they are not applicable to the Commission's operations.

Thank you for the opportunity to provide feedback on the Bill. Please contact my office directly to discuss the submission further if required.

Yours sincerely



A J MacSporran QC
Chairperson