

# Big Bank Levy (COVID-19 Health Response) Bill 2021

## Statement of Compatibility

### Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the Human Rights Act 2019, I, Amy MacMahon, Member for South Brisbane, make this statement of compatibility with respect to the *Big Bank Levy (COVID-19 Health Response) Bill* (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement. It limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

### Overview of the Bill

The Bill will enact a 0.05% levy on the five biggest banks operating in Queensland, in order to fund the hospital system adequately to deal with an increase in COVID-19 cases.

Section 13 sets out that this levy must not be recovered from customers: it must be paid out of profits or other funds of the bank.

## Human Rights Issues

### Human rights relevant to the Bill (Part 2, Division 2 and 3 Human Rights Act 2019)

In the words of Edward, First Baron Thurlow and Lord Chancellor of England from 1778 to 1783, a corporation has no soul to damn and no body to kick.<sup>1</sup> It's not possible to breach the human rights of a large banking corporation, and this bill does not directly engage any of the human rights set out in the *Human Rights Act 2019* (Qld).

In the spirit of thoroughness, I will examine the bill's indirect engagement with the right to property under section 24 of the Act.

The right of a person not to be arbitrarily deprived of their property (s(24(2))) is protected by the HR Act and by civil and criminal law in Queensland.

In very slightly limiting the five big banks' profits, I have considered whether this would amount to arbitrarily limiting the property rights of the banks' shareholders.

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<sup>1</sup> <https://www.jstor.org/stable/1288201>

I believe that any diminution in value of shareholders' profits would not amount to an arbitrary deprivation of property, and this is consistent with recent submissions by the Human Rights Commissioner to the Community Services and Support Committee in relation to the government's *Housing Legislation Amendment Act 2021*.<sup>2</sup>

Even if a diminution in shareholders' profits were considered to be a deprivation of property, the nature of this limitation is consistent with a free and democratic society based on human dignity, equality and freedom, given the raising of the bank levy is intended to fund our hospital system adequately to deal with an increase in COVID-19 cases. Accordingly, it accords with section 13 of the HR Act.

There are no reasonably available ways to achieve the purpose of the Bill which are even less restrictive on human rights.

### **Conclusion**

In my opinion, the *Big Bank Levy (COVID-19 Health Response)* is compatible with human rights under the *Human Rights Act 2019* (Qld). Any indirect and minor limitation on human rights is only to the extent that is reasonable and demonstrably justifiable, in accordance with section 13 of the Act.

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<https://documents.parliament.qld.gov.au/com/CSSC-0A12/HLAB2021-37A9/submissions/00000716.pdf>