

Emblems of Queensland and Other Legislation Amendment Bill 2023

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, the Honourable Stirling Hinchliffe MP, Minister for Tourism, Innovation and Sport and Minister Assisting the Premier on Olympics and Paralympics Sport and Engagement, make this statement of compatibility with respect to the Emblems of Queensland and Other Legislation Amendment Bill 2023 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

On 22 October 2022, the State fossil emblem was announced by the Queensland Government as the *Muttaborrasaurus langdoni*. Amending the *Emblems of Queensland Act 2005* is required to officially recognise the State fossil emblem.

In addition to legislating for the State fossil emblem, the Bill makes certain amendments to the *Crime and Corruption Act 2001*, the *Parliamentary Service Act 1988* and the *Parliament of Queensland Act 2001* to address a number of minor and technical issues to improve and clarify parliamentary processes and procedures. These amendments in the Bill will amend the:

- *Crime and Corruption Act 2001* to retrospectively clarify that since 23 April 1998, members of the Parliamentary Crime and Corruption Committee and its predecessor committees have been able to participate in committee meetings and vote on a question in person or by telephone, video or other electronic means;
- *Parliamentary Service Act 1988* to correct a legislative oversight from 1995 and clarify that for the purposes of the *Parliamentary Service Act 1988*, the parliamentary precinct includes the Legislative Assembly chamber and its galleries when the Legislative Assembly is sitting;
- *Parliamentary Service Act 1988* to provide that in a proceeding for an offence related to a person's behaviour on the parliamentary precinct, despite section 8 of the *Parliament of Queensland Act 2001*, evidence may be given in a court or other place out of the Legislative Assembly of a direction made or purportedly made by the Speaker or a person authorised to make such directions during proceedings in the Legislative Assembly
- *Parliamentary Service Act 1988* to provide it is the Speaker of the Legislative Assembly who is required to prepare the human rights certificate and explanatory notes for by-laws and rules made by the Speaker under the *Parliamentary Service Act 1988* rather than the Minister responsible for the Act;
- *Parliament of Queensland Act 2001* to refine the process by which a member of the Legislative Assembly in a state of ill health has their request for a proxy vote notified to the Assembly;

- *Parliament of Queensland Act 2001* to retrospectively clarify that since 23 April 1998, members of parliamentary committees have been able to participate in committee meetings and vote on a question in person or by telephone, video or other electronic means; and
- *Parliament of Queensland Act 2001* to update a number of cross references in the Act to definitions that are explained and provided for in the *Electoral Act 1992*.

Human Rights Issues

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

I have considered the rights protected by Part 2 of the *Human Rights Act 2019*. In my opinion, the human rights under the *Human Rights Act 2019* that are relevant to the Bill are:

- Freedom of movement (section 19 of the Human Rights Act)
- Freedom of expression (section 21 of the Human Rights Act)
- Taking part in public life (section 23 of the Human Rights Act)
- Privacy and reputation (section 25 in the Human Rights Act)
- Right to liberty and security of person (section 29 in the Human Rights Act)

For the reasons outlined below, I am of the view that the Bill is compatible with these human rights and in no way limits the human rights of an individual. The other clauses and the Schedule in the Bill are not thought to impact on the human rights protected by the *Human Rights Act*.

Freedom of movement (Section 19 of the Human Rights Act and Clauses 3, 4 and 13 of the Bill)

Section 19 of the *Human Rights Act 2019* provides that every person lawfully within Queensland has the freedom to choose where to live.

Clauses 3, 4 and 13 of the Bill retrospectively clarify that since 23 April 1998, members of parliamentary committees have been able to participate in committee meetings in person or by telephone, video or other electronic means. By allowing committee members this choice, enables them to participate in committee meetings and vote on a question by electronic means rather than having to travel to (for the most part) Parliament House in Brisbane. This means members who represent and live in electorates a long distance from Brisbane, are not overburdened with travel requirements, and can make use of modern technology to assist them with their duties and not weigh on their choice of where to live.

Freedom of expression (Section 21 of the Human Rights Act and Clauses 3, 4 and 13 of the Bill)

Section 21 of the *Human Rights Act 2019* provides every person with the right to freedom of expression with every person able to seek, receive, or impart information in any medium chosen by the person.

Clauses 3, 4 and 13 of the Bill retrospectively clarify that since 23 April 1998, members of parliamentary committees have been able to participate in committee meetings and vote on a question in person or by telephone, video or other electronic means. By allowing committee members this choice, members may choose the medium through which they seek, receive or impart information as part of the committee process at committee meetings.

Taking part in public life (Section 23 of the Human Rights Act and Clauses 3, 4 and 13 of the Bill)

Section 23 of the *Human Rights Act 2019* provides every person in Queensland has the right and opportunity to participate in the conduct of public affairs, directly or through freely chosen representatives.

Clauses 3, 4 and 13 of the Bill retrospectively clarify that since 23 April 1998, members of parliamentary committees have been able to participate in committee meetings and vote on a question in person or by telephone, video or other electronic means. By allowing committee members this choice, members are able to directly participate in public affairs such as parliamentary committee meetings, without travel and other constraints having to be placed upon them.

Privacy and reputation (Section 25 of the Human Rights Act and Clause 12 of the Bill)

Section 25 of the *Human Rights Act 2019* provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and not to have their reputation unlawfully attacked. A person's right to privacy encompasses their right to information privacy, including personal and confidential information.

Clause 12 of the Bill will ensure that a member of the Legislative Assembly's privacy around medical conditions is maintained as the process to provide a notification for a proxy vote to the Legislative Assembly when a member is unwell will no longer require the Speaker to read the details of medical certificates to the Assembly.

Right to liberty and security of person (Section 29 of the Human Rights Act and Clause 8 of the Bill)

Section 29 of the *Human Rights Act 2019* provides that every person has the right to liberty and security, and then sets out how this right shall be maintained.

Clause 8 of the Bill will correct a drafting oversight from 1995 in the *Parliamentary Service Act 1988*, by clarifying that the Legislative Assembly chamber and its galleries are taken to be part of the parliamentary precinct when the Assembly is sitting. This will mean that the by-laws made by the Speaker under section 50 of the *Parliamentary Service Act 1988* prescribing the rules for behaviour and conduct of all persons, except members of the Legislative Assembly, entering upon the parliamentary precinct, also apply when a person is in the Legislative Assembly chamber or its galleries.

This will again make it possible for the Queensland Police Service, upon complaint from the Clerk of the Parliament, to commence summary proceedings by way of the *Justices Act 1886* against a person accused of disturbing the Legislative Assembly chamber or its galleries on a sitting day.

This will sit in addition to the current ability to pursue a person accused of interfering with or disturbing the Legislative Assembly for a criminal offence under sections 55, 56, 56A or 56B of the *Criminal Code Act 1899*.

Clause 9 of the Bill also provides that in a proceeding against a person for an offence related to their behaviour in the parliamentary precinct, despite section 8 of the *Parliament of Queensland Act 2001*, evidence may be given in a court or place out of the Legislative Assembly, of a direction made or purportedly made by the Speaker or a person authorised to make such directions during proceedings in the Assembly.

The amendment is necessary to ensure that evidence is able to be given in a prosecution against a person for an offence against section 50 of the *Parliamentary Service Act 1988*.

A similar excluding provision currently exists in the Criminal Code (section 53) to similarly provide that a person cannot use section 8 of the *Parliament of Queensland Act 2001* as a reason for a court to discontinue its hearing of offences for disturbing the legislature contained in the Criminal Code.

Rights of liberty as set out in section 29 of the *Human Rights Act 2019*, would be afforded to any person prosecuted for an offence against section 50 of the *Parliamentary Service Act 1988* by way of summary proceedings under the *Justices Act 1886*. Such a person would also be afforded all of the protections provided for under the laws of Queensland and as also outlined in the *Human Rights Act 2019*, i.e. sections 15 (recognition and equality before the law), section 31 (fair hearing) and section 32 (rights in criminal proceedings).

Rights of security should also be afforded to members of the Legislative Assembly and others who work or who are visiting within the parliamentary precinct. All of these persons have a legitimate right to a secure workplace and a safe environment. They also have a right to expect that persons accused of disturbing the Legislative Assembly chamber or its galleries on a sitting day are able to be appropriately pursued in relation to the behaviour of which they are accused.

Clauses 8 and 9 of the Bill do not infringe upon these rights and in fact enhance them, by providing the Queensland Police Service with different options to pursue a person alleged of disturbing the Legislative Assembly, depending upon the nature of the allegations made against the person.

Conclusion

In my opinion, the Emblems of Queensland and Other Legislation Amendment Bill 2023 is compatible with human rights under the *Human Rights Act 2019* because it does not limit an individual's human rights.

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