

Small Business Commissioner Bill 2021

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Di Farmer MP

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Di Farmer, Minister for Employment and Small Business and Minister for Training and Skills Development make this statement of compatibility with respect to the amendments to be moved in consideration in detail (ACiD) for the Small Business Commissioner Bill 2021 (SBC Bill).

In my opinion, the ACiDs for the SBC Bill are 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 amendments

The SBC Bill was introduced into the Legislative Assembly on 12 October 2021 and proposes to establish a permanent Small Business Commissioner (Commissioner) in standalone legislation. The SBC Bill has two main objectives which are to enhance the operating environment for small businesses in Queensland; and to reduce the time and costs associated with resolving disputes involving small businesses.

This Statement of Compatibility relates to two proposed ACiDs.

The first amendment amends the commencement date of the Act in Clause 2 of the SBC Bill to 3 May 2022 (from 1 March 2022). This amendment is due to a delay to the SBC Bill's debate. The SBC Bill was anticipated to be debated in the final sitting week of 2021. However, as the debate of the SBC Bill did not occur in that sitting week there is now insufficient time for the SBC Bill to receive assent before its 1 March 2022 commencement date or for the proposed supporting regulation to be lodged or considered by Executive Council with sufficient time to align with the SBC Bill's commencement.

The second corrects a minor, technical reference in Clause 21(2) of the SBC Bill. Under Clause 21(2) of the SBC Bill, parties can only apply for mediation through the Commissioner for a small business franchise dispute if the Australian Small Business and Family Enterprise Ombudsman (ASFBEO) has referred the dispute to the Commissioner under section 15(a) of the *Australian Small Business and Family Enterprise Ombudsman Act 2015* (Cwlth) (AFBEO Act). This requirement is in addition to the other eligibility criteria in Clause 21(1).

As part of further review of the SBC Bill in light of the public submissions received by the Education, Employment and Training Committee, it was identified that the referral reference in Clause 21(2) of the SBC Bill to section 15(a) of the AFBE Act is incorrect. Specifically, that section 15(a) only relates to the referral of a 'relevant action', which does not include a franchise dispute. ASFBEO does not rely on a particular legislative power to refer franchise matters to other agencies, but instead do so administratively. The ACiD proposes to remove this reference.

Human Rights Issues

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

The ACiDs have been considered with regards to the *Human Rights Act 2019* and it has been determined that no human rights have been engaged by the proposed amendments.

Conclusion

In my opinion, the ACiDs for the SBC Bill are compatible with human rights under the *Human Rights Act 2019* because they do not limit any human rights.

DI FARMER
MINISTER FOR EMPLOYMENT AND SMALL BUSINESS
MINISTER FOR TRAINING AND SKILLS DEVELOPMENT

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