

Queensland



**INTELLECTUALLY
DISABLED CITIZENS
AMENDMENT BILL 1993**



INTELLECTUALLY DISABLED CITIZENS AMENDMENT BILL 1993

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1993

A BILL

FOR

An Act to amend the Intellectually Disabled Citizens Act 1985

The Parliament of Queensland enacts—	1
Short title	2
<i>Clause1.</i> This Act may be cited as the <i>Intellectually Disabled Citizens Amendment Act 1993</i> .	3 4
Amended Act	5
<i>Clause2.</i> The <i>Intellectually Disabled Citizens Act 1985</i> is amended as set out in this Act.	6 7
Omission of ss.2 and 3	8
<i>Clause3.</i> Sections 2 and 3— <i>omit.</i>	9 10
Amendment of s.4 (Interpretation)	11
<i>Clause4.(1)</i> Section 4 (heading)— <i>omit, insert—</i>	12 13
‘Definitions’.	14
(2) Section 4 (definitions “ Chairman ”, “ citizen ”, “ Department ”, “ Minister ”, “ nearest relative ” and “ Public Trustee ”)— <i>omit.</i>	15 16 17
(3) Section 4— <i>insert—</i>	18 19
“ Chairperson ” means the Chairperson of the Council;	20
“ citizen ” means an adult resident of Queensland;	21
“ nearest relative ” of an intellectually disabled citizen is the 1st of the following relatives who, in descending order of priority, is reasonably available—	22 23 24

(a) a spouse;	1
(b) an adult son or daughter;	2
(c) a parent;	3
(d) a grandparent;	4
(e) an adult brother or sister;	5
(f) another adult relative who, in the Council's opinion, has a proper interest in the wellbeing of the citizen;'	6 7
Omission of s.6 (Administration of Act)	8
<i>Clause5.</i> Section 6—	9
<i>omit.</i>	10
Replacement of s.8 (Composition of Council)	11
<i>Clause6.</i> Section 8—	12
<i>omit, insert—</i>	13
'Composition of Council	14
'8.(1) The Council is to consist of at least 7 members appointed by the Governor in Council by Gazette notice.	15 16
'(2) Members are to be persons who have, in the Governor in Council's opinion, appropriate knowledge about intellectual disability because of their qualifications or personal or professional experience.	17 18 19
'(3) A person is not eligible for appointment as a member if the person is—	20 21
(a) an officer or employee of the department; or	22
(b) a paid employee of an entity whose principal function is the delivery of services related to intellectual disability.	23 24
'(4) The Governor in Council may, by Gazette notice, appoint—	25
(a) a member to be Chairperson; and	26
(b) a member to be First Deputy Chairperson; and	27

(c) a member to be Second Deputy Chairperson.	1
‘(5) The First Deputy Chairperson acts as Chairperson—	2
(a) while there is a vacancy in the office of Chairperson; and	3
(b) while the Chairperson is absent or is, for another reason, unable to perform the duties of Chairperson.	4
	5
‘(6) The Second Deputy Chairperson acts as Chairperson—	6
(a) while there are vacancies in the offices of both Chairperson and First Deputy Chairperson; and	7
	8
(b) while both the Chairperson and the First Deputy Chairperson are absent or are, for another reason, unable to perform the duties of Chairperson.’.	9
	10
	11
Replacement of s.9 (Term of appointment)	12
<i>Clause7.</i> Section 9—	13
<i>omit, insert—</i>	14
‘Term of appointment	15
‘9. The appointment of a member is to be for a term of not more than 3 years.’.	16
	17
Omission of s.10 (Casual vacancies)	18
<i>Clause8.</i> Section 10—	19
<i>omit.</i>	20
Amendment of s.11 (Vacation of office)	21
<i>Clause9.(1)</i> Section 11(1)(d)—	22
<i>omit, insert—</i>	23
‘(d) is convicted of an indictable offence; or’.	24
(2) Section 11(1)(f) and (g)—	25
<i>omit, insert—</i>	26

‘(f) becomes—	1
(i) an officer or employee of the department; or	2
(ii) a paid employee of an entity whose principal function is the delivery of services related to intellectual disability.’.	3
	4
Amendment of s.13 (Panel members)	5
Clause10.(1) Section 13(3)—	6
<i>omit, insert—</i>	7
‘(3) The appointment of a panel member is to be for a term of not more than 3 years.	8
	9
‘(3A) A panel member holds office on the terms of appointment determined by the Minister.’.	10
	11
(2) Section 13(6)—	12
<i>omit ‘Workers’ Compensation Act 1916-1988’,</i>	13
<i>insert ‘Workers’ Compensation Act 1990’.</i>	14
Amendment of s.13A (Allocation of duties to panels)	15
Clause11.(1) Section 13A(2)—	16
<i>omit ‘members of the Council’, insert ‘members’.</i>	17
(2) Section 13A(2)(a)(i)—	18
<i>omit ‘as a paid employee of the Department or a paid employee of any other organization or body the principal function of which’,</i>	19
	20
<i>insert ‘as an officer or employee of the department or a paid employee of an entity whose principal function’.</i>	21
	22
Replacement of s.14 (Fees and allowances)	23
Clause12. Section 14—	24
<i>omit, insert—</i>	25

‘Fees and allowances	1
‘14.(1) Members and panel members are to be paid the fees and allowances determined by the Governor in Council.	2 3
‘(2) Members and panel members are to be paid the expenses incurred by them in discharging their functions if the payment is approved by the chief executive.’.	4 5 6
Amendment of s.15 (Holder of office not affected by restrictive employment provisions)	7 8
<i>Clause</i> 13. Section 15—	9
omit ‘, subject to section 14(2),’.	10
Replacement of ss.18 and 19	11
<i>Clause</i> 14. Sections 18 and 19—	12
omit, insert—	13
‘Quorum	14
‘18.(1) At a meeting of the Council (other than a meeting mentioned in subsection (2)), a quorum is at least half the members constituting the Council at the time, of whom 1 must be the Chairperson.	15 16 17
‘(2) At a meeting of the Council to consider a report and the recommendations of a panel constituted under section 13A(2), a quorum is—	18 19 20
(a) the person who, under section 19(2), is to preside at the meeting; and	21 22
(b) 2 other members.	23
‘Meetings	24
‘19.(1) Meetings of the Council are to be held at the times and places determined by the Chairperson.	25 26
‘(2) The Chairperson is to preside at all meetings.	27
‘(3) However, at a meeting of the Council held for the purpose	28

mentioned in section 18(2)—	1
(a) if the Chairperson is not present at the meeting, but the First Deputy Chairperson is present—the First Deputy Chairperson is to preside; and	2 3 4
(b) if the Chairperson and the First Deputy Chairperson are not present at the meeting, but the Second Deputy Chairperson is present—the Second Deputy Chairperson is to preside; and	5 6 7
(c) if the Chairperson, the First Deputy Chairperson and the Second Deputy Chairperson are not present at the meeting—a member nominated by the Chairperson is to preside.	8 9 10
‘(4) A nomination for the purpose of subsection (3)(c)—	11
(a) must be in writing; and	12
(b) may be of general or limited application; and	13
(c) may be revoked by the Chairperson by written notice given to the nominee.	14 15
‘(5) Two or more meetings of the Council may be held concurrently for the purpose mentioned in section 18(2).’.	16 17
Amendment of s.20 (Conduct of affairs)	18
Clause15. Section 20 (3rd sentence)—	19
omit ‘Chairman’, insert ‘person presiding’.	20
Replacement of s.21 (Minutes)	21
Clause16. Section 21—	22
omit, insert—	23
‘Minutes	24
‘21. The Council must keep minutes of its proceedings.’.	25

Omission of s.22 (Validity of proceedings)	1
<i>Clause</i> 17. Section 22—	2
<i>omit.</i>	3
 Amendment of s.26 (Legal Friend)	4
<i>Clause</i> 18.(1) Section 26(3) (after ‘care’)—	5
<i>insert</i> ‘(whether a single item of treatment or care or a course of treatment or care over a period)’.	6
	7
(2) Section 26(5)—	8
<i>omit</i> ‘In giving’, <i>insert</i> ‘Before deciding whether or not to give’.	9
(3) Section 26(5)(d)—	10
<i>omit, insert—</i>	11
‘(5A) In giving consent, the Legal Friend must ensure that, as far as possible, the consent is for the least restrictive option available, after taking into consideration the health, wellbeing and expressed wishes of the assisted citizen.’.	12
	13
	14
	15
(4) Section 26(7)—	16
<i>omit, insert—</i>	17
‘(7) Subject to any directions of the Minister, the Legal Friend may delegate the Legal Friend’s powers under this Act to a barrister or solicitor.	18
	19
‘(7A) The Legal Friend must not delegate a power that may involve the expenditure of an amount unless the chief executive has approved the expenditure.’.	20
	21
	22
(5) Section 26(9)(b)(ii) (after ‘care’)—	23
<i>insert</i> ‘(whether a single item of treatment or care or a course of treatment or care over a period)’.	24
	25
(6) Section 26(11)—	26
<i>omit</i> ‘(3), (4) and (5)’, <i>insert</i> ‘(3) to (5A)’.	27

Amendment of s.27 (Applications for approvals and reviews)	1
Clause19.(1) Section 27(2)(a)—	2
<i>omit, insert—</i>	3
‘(a) an adult relative of the citizen;’.	4
(2) Section 27—	5
<i>omit</i> ‘a member of the Police Force’, <i>insert</i> ‘a police officer’.	6
(3) Section 27(2)(e)—	7
<i>omit</i> ‘any other person, who has attained the age of 18 years,’,	8
<i>insert</i> ‘any other adult’.	9
(4) Section 27(3)(b)—	10
<i>omit, insert—</i>	11
‘(b) an adult relative of the citizen;’.	12
(5) Section 27(3)(c)—	13
<i>omit</i> ‘any other person, who has attained the age of 18 years,’,	14
<i>insert</i> ‘any other adult’.	15
 Amendment of s.29 (Notice of proceedings, etc.)	16
Clause20. Section 29(2)—	17
<i>omit</i> ‘any other relative or other person, who has attained the age of 18 years,’,	18
<i>insert</i> ‘any other adult’.	19
 Amendment of s.31 (Information supplied to Council)	21
Clause21. Section 31(1)—	22
<i>omit, insert—</i>	23
‘ 31.(1) If a person is asked by the Chairperson or the convenor of a panel	24
to supply to the Council or the panel information relevant to the	25
consideration of an application under section 27 or the conduct of a review	26

under section 28, the person must comply with the request to the extent that the person is able.’.

Amendment of s.31A (Consideration of applications, etc.)

Clause 22.(1) Section 31A(4)(a)—

omit ‘(3)(b)’, *insert* ‘(3)(b)(ii) or (iii)’.

(2) Section 31A(4)(a)(i)—

omit ‘for the purpose of section 26(1)(a)’.

Amendment of s.32 (Public Trustee to manage estates of certain assisted citizens)

Clause 23.(1) Section 32(1A)(c)—

omit.

(2) Section 32—

insert—

‘(5) In subsections (2) to (4)—

“assisted citizen” includes a citizen mentioned in subsection (1A)(a).’.

Amendment of s.33 (Solicitor not to act)

Clause 24. Section 33(2)—

omit, insert—

‘(2) In this section—

“proceedings” has the meaning given by section 6 of the *Public Trustee Act 1978*;

“property” has the meaning given by section 6 of the *Public Trustee Act 1978*;’.

Amendment of s.44 (Access to certain intellectually disabled citizens)	1
<i>Clause25.</i> Section 44(6) and (7)—	2
<i>omit</i> ‘member of the Police Force’, <i>insert</i> ‘police officer’.	3
 Omission of ss.47 and 48	4
<i>Clause26.</i> Sections 47 and 48—	5
<i>omit.</i>	6
 Renumbering of s.49 (Annual Report)	7
<i>Clause27.</i> Section 49—	8
<i>renumber</i> as section 47.	9
 Insertion of new ss.48 and 49	10
<i>Clause28.</i> After section 47 (as renumbered)—	11
<i>insert—</i>	12
‘Protection from liability	13
‘48.(1) This section applies to—	14
(a) the Minister; and	15
(b) a member; and	16
(c) a panel member; and	17
(d) the Legal Friend.	18
‘(2) A person to whom this section applies does not incur civil liability for an act or omission done honestly and without negligence under this Act.	19 20
‘(3) A liability that would, apart from this section, attach to the person attaches instead to the State.	21 22
 ‘Regulations	23
‘49.(1) The Governor in Council may make regulations for the purposes of this Act.	24 25

‘(2) A regulation may be made prescribing fees and charges for the purposes of this Act.’.

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