

Police Powers and Responsibilities and Other Legislation Amendment Bill 2019

Statement of Compatibility

FOR

Amendments during Consideration in Detail moved by the Honourable Mark Ryan 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, Mark Ryan MP, Minister for Police and Minister for Corrective Services make this statement of compatibility with respect to the amendments to be moved during consideration in detail (ACiDs) for the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019.

In my opinion, the ACiDs to the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019 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 Bill

The Police Powers and Responsibilities and Other Legislation Amendment Bill 2019 (the Bill) clarifies powers of law enforcement to access information on or through electronic devices so there is no ambiguity as to the scope of information that can be lawfully accessed. In addition, the Bill seeks to enhance the operations of Weapons Licensing, Queensland Police Service (QPS), to create efficiencies for the QPS in general and increase community safety.

At the time of introduction the Bill was also intended to enhance the operations of the Prostitution Licensing Authority (PLA) by:

- providing authority for PLA officers to enter, search and seize at a licensed brothel;
- making breaches of licence conditions under section 78(1)(c) of the *Prostitution Act 1999* (the Prostitution Act), simple offences rather than indictable offences; and
- removing the three-year ineligibility period for the automatic cancellation of a brothel licence and approved manager's certificate for the non-payment of fees only.

The proposed *Prostitution Act* amendments authorising PLA officers to enter, search and seize at a licensed brothel would have limited human rights under the *Human Rights Act 2019* (HR Act). However, after the introduction of the Bill the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice indicated her intention to refer the development of an

appropriate regulatory framework for the sex industry to the Queensland Law Reform Commission (QLRC).

Given the decision to refer this matter to the QLRC, the Premier granted permission to remove the proposed amendments to the Prostitution Act from the Bill. This decision was communicated to the Chair of the Legal Affairs and Community Safety Committee on 21 October 2019.

Human Rights Issues

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

The proposed legislative amendments to the Prostitution Act, which are being removed from the Bill by the ACiDs, would have provided limited powers for authorised officers to enter, search and seize documents at a licensed brothel. These powers would limit a number of human rights under the HR Act, including:

- Property rights (section 24 of the HR Act); and
- Privacy and reputation (section 25 of the HR Act).

If human rights may be subject to limitation if the amendments are enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

While the proposed legislative amendments to the Prostitution Act would limit human rights, the ACiDs remove those amendments from the Bill meaning those limitations on human rights are no longer effected.

I therefore consider that there is no need to consider whether or not those limitations would have been reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

(a) the nature of the right

Not applicable.

(b) the nature of the purpose of the limitation to be imposed by the amendments if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Not applicable.

(c) the relationship between the limitation to be imposed by the amendments if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Not applicable.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose of the amendments

Not applicable.

- (e) the balance between the importance of the purpose of the amendments, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Not applicable.

- (f) any other relevant factors

As part of the QLRC's wider examination of an appropriate regulatory framework for the sex work industry, any human rights that are engaged or limited by the existing laws and/or any proposed framework will be considered by the QLRC.

Conclusion

In my opinion, the ACiDs to the Police Powers and Responsibilities and Other Legislation Amendment Bill 2019 are compatible with human rights under the *Human Rights Act 2019* because they do not limit a human right.

The Honourable Mark Ryan MP
MINISTER FOR POLICE AND MINISTER FOR CORRECTIVE SERVICES

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