

Statement of Compatibility

FOR

Amendment to be moved during consideration in detail by the Member for Maiwar, Michael Berkman MP

**Public Trustee (Advisory and Monitoring Board)
Amendment Bill 2021**

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

In accordance with section 38 of the *Human Rights Act 2019* (**the HRA**), I, Michael Berkman, Member for Maiwar, make this statement of compatibility with respect to the amendment moved during consideration in detail (**ACiDs**) of the *Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021*.

In my opinion, the ACiDs for the Bill are compatible with the human rights protected by the Human Rights Act.

Overview of the amendment

The amendment to be moved during consideration in detail (**ACiDs**) of the *Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021*, are designed to reflect the spirit of the Office of the Public Advocate Report (**OPA Report**) which outlines 32 recommendations aiming to improve the performance, transparency and accountability of the Public Trustee.

The objective of the amendment is to ensure that progress on implementing the recommendations of the OPA Report is reported on, to improve transparency of their implementation and in order to improve the performance and public accountability of the Public Trustee.

Human rights implications

Human rights relevant to the amendment

There are no significant limitations on Human Rights created by the amendment.

Security and Liberty

The amendment may be considered to indirectly engage in the right to liberty and security of persons,¹ to the extent that it imposes an obligation on the Minister to table a report about action taken in relation to each recommendation of the OPA Report. Failure to do so leaves the Minister exposed to the default offence provision under section 140 of the *Public Trustee Act 1978* (Qld) (**PTA**). Although this may limit an individual's right to liberty and security, the limitations apply to any contravention of the PTA, and are reasonable to ensure transparency around the implementation of the OPA Report recommendations.

Balance and Enhancement of Human Rights

Any limitation on human rights is balanced by the purpose of the amendment which is to enhance and protect the rights and interests of persons under the administration of the Public Trustee. These rights include:

- recognition and equality before the law;²
- protection from torture and cruel, inhuman or degrading treatment;³
- protection of families and children.⁴

By ensuring that the OPA Report recommendations are implemented, the amendment seeks to significantly enhance the human rights and interests of Queenslanders with impaired decision-making. Creating Parliamentary oversight around the implementation of these recommendations will foster transparency in the Public Trustee's commitment to treat clients with dignity, respect and encourage client autonomy.

Conclusion

In my opinion, my amendment to the *Public Trustee (Advisory and Monitoring Board) Amendment Bill 2021* are compatible with human rights under the HR Act because they limit human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

¹ HRA, s 30.

² HRA, s 15.

³ HRA, s 17.

⁴ HRA, s 26.