

## **TERMS OF REFERENCE**

### **First independent review of the *Human Rights Act 2019* (Qld)**

Pursuant to section 95(1) of the *Human Rights Act 2019* I, YVETTE D'ATH, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, ask Professor Susan Harris Rimmer to inquire into, and report by 20 September 2024 on the operation of the Act before 1 July 2023.

### **BACKGROUND**

The *Human Rights Act 2019* (the Act) commenced in full on 1 January 2020.

Queensland was the third jurisdiction to adopt a human rights legislation, following the *Human Rights Act 2004* (ACT) and the *Charter of Human Rights and Responsibilities 2006* (Vic).

The main objects of the Act are:

- to protect and promote human rights;
- to help build a culture in the Queensland public sector that respects and promotes human rights; and
- to help promote a dialogue about the nature, meaning and scope of human rights.

The Act protects fundamental human rights that are recognised in international covenants including the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, the United Nations Declaration on the Rights of Indigenous People and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Act primarily protects civil and political rights but it also protects two economic and social rights drawn from the ICESCR (the right to education and right to health services). The Act also explicitly recognises cultural rights and, in particular, the distinct cultural rights of Aboriginal peoples and Torres Strait Islander peoples.

The Act imposes obligations on all three arms of government:

- the legislature (Parliament must consider human rights when proposing and scrutinising new laws);
- the judiciary (courts and tribunals, must interpret legislation in a way that is compatible with human rights so far as it is possible to do so); and
- the executive (public entities must act and make decisions in a way that is compatible with human rights and in making a decision, must give proper consideration to human rights relevant to the decision).

The Act provides for a complaints and dispute resolution process, the first of any Australian state or territory jurisdiction. The Queensland Human Rights Commission (QHRC) has a dispute resolution (complaints handling and conciliation) function. The QHRC also plays an important role in providing information and education about human rights and the Act.

### **FIRST INDEPENDENT REVIEW OF THE ACT**

Section 95 of the Act requires the operation of the Act to be independently reviewed by an appropriately qualified person as soon as practicable after 1 July 2023.

It is intended that the first review of the Act will be a targeted review aimed at the effectiveness of the current provisions in the Act, including any issues that have arisen in relation to its

operative provisions since the Act's substantive provisions commenced on 1 January 2020 up to 30 June 2023.

In this respect the review will provide an opportunity to assess how well the Act has been implemented and how well it is meeting its objective of building a culture of human rights across the Queensland public sector.

However, pursuant to section 95(4) of the Act, the Reviewer will also be required to specifically consider;

- whether additional human rights should be included as human rights under the Act;
- whether further or different provision should be made in the Act with respect to remedies available under the Act; and
- whether the amendments made by the Act to the *Corrective Services Act 2006* and the *Youth Justice Act 1992* are operating effectively.

The matters in section 95(4) will ensure the Act continues to reflect the values and aspirations of the Queensland community.

## SCOPE

The review of the *Human Rights Act 2019* (the Act) should consider:

1. the extent to which implementation of the Act has helped to build a culture of human rights in the Queensland public sector including the role of support, education, training and guidance provided by the Queensland Government and the Queensland Human Rights Commission;
2. the matters referred to in section 95(4) of the Act, namely;
  - a. whether additional human rights should be included as human rights under the Act, including, but not limited to, rights under—
    - i. the International Covenant on Economic, Social and Cultural Rights; or
    - ii. the Convention on the Rights of the Child; or
    - iii. the Convention on the Rights of Persons with Disabilities; or
    - iv. the Convention on the Elimination of All Forms of Discrimination against Women;
  - b. whether further or different provision should be made in the Act about proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public entities made unlawful because of the Act;
  - c. whether the amendments made by the Act to the *Corrective Services Act 2006* and the *Youth Justice Act 1992* are operating effectively, or whether further or different provision should be made for the interrelationship between the Act and those Acts.
3. the effectiveness, and whether there is a need for reform, of the provisions of the Act in relation to:
  - a. existing protected rights (Part 2, Divisions 2 and 3 of the Act);
  - b. the scrutiny of legislation and regulation by Parliament (Part 3, Divisions 1 and 2 of the Act);
  - c. court and tribunal proceedings, including the interpretation of laws (Part 3, Division 3 of the Act);
  - d. the obligations of public entities to act and make decisions in a way that is compatible with human rights and to properly consider human rights in making a decision (section 58 of the Act);
  - e. the provisions in relation to human rights complaints and dispute resolution (Part 4, Division 2 of the Act);
4. whether (as recommended by the Women's Safety and Justice Taskforce in its Report - Hear her voice – Report two – Women and girls' experiences across the criminal justice system and the Legal Affairs and Safety Committee Report on the Inquiry into Support provided to Victims of Crime (Report No. 48, 57<sup>th</sup> Parliament, May 2023)) the recognition of victims' rights under the Charter of Victims' rights in the *Victims of Crime Assistance Act 2009* should be incorporated into the Act; and
5. any other matter the Reviewer considers appropriate and relevant.

## **CONSULTATION**

In conducting the review, the Reviewer is asked to consult with all Queensland government departments, the Queensland Human Rights Commission, key legal stakeholders (including the Queensland Law Society, the Bar Association Queensland and community legal centres), victims, First Nations peoples, service providers (including those working with victims of domestic, family and sexual violence victim-survivors) and interested academics.

Should the Reviewer consider broader consultation is required to inform the review, the Reviewer may invite (for example by correspondence/ public notice/ advertisement) submissions in writing from interested persons.

## **REPORT**

The Reviewer is to provide a report on its review to the Attorney-General and Minister for Justice, and Minister for the Prevention of Domestic and Family Violence by 20 September 2024.

Pursuant to section 95(5) of the Act, the Attorney-General must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.