

Electrical Safety and Other Legislation Amendment Bill 2025

Statement of Compatibility

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

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations, make this statement of compatibility with respect to the Electrical Safety and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The policy objectives of the Bill are to:

- ensure Queensland's electrical safety framework continues to protect Queenslanders by minimising, and where possible, eliminating electrical risks to people and property by confirming electricity entities can give electrical equipment defect notices, and empowering the regulator to give unsafe equipment directions to prohibit the sale, installation and use of unsafe electrical equipment; and
- reduce the administrative burden of the regulator and re-align Queensland with other states and territories by removing an additional avenue for health and safety representatives and work health and safety (WHS) entry permit holders to request and receive information in certain notices from the regulator, which has not yet commenced.

To achieve these objectives, the Bill amends the *Electrical Safety Act 2002* (ES Act), the *Work Health and Safety Act 2011* (WHS Act), and the *Work Health and Safety and Other Legislation Amendment Act 2024* (WHSOLA Act).

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 of the HR Act 2019)

Human rights principles informed the development of the Bill. Human rights under the HR Act engaged by the Bill include:

- freedom of expression (section 21)
- property rights (section 24)
- right to privacy and reputation (section 25)
- right to a fair hearing (section 31)
- right not to be tried or punished more than once (section 34), and

- right to protection against retrospective criminal laws (section 35).

Promoting and enhancing human rights

Amendments to the electrical safety framework

Right to a fair hearing (section 31 of the HR Act)

The right to a fair hearing affirms the right of all individuals to procedural fairness when coming before a court or tribunal. It applies to both criminal and civil proceedings and guarantees that such matters must be heard and decided by a competent, impartial and independent court or tribunal.

The Bill promotes the right to a fair hearing as the regulator's decision to give an unsafe equipment direction will be subject to external review by the Queensland Civil and Administrative Tribunal. The Bill reaffirms the existing right for a person to seek an external review of these directions under the ES Regulation when it is relocated to the ES Act.

Right not to be tried or punished more than once (section 34 of the HR Act)

A person must not be tried or punished more than once for an offence in relation to which the person has already been finally convicted or acquitted in accordance with the law.

The Bill introduces a new offence if a person fails to comply with an unsafe equipment direction into the ES Act, modelled on an existing offence in the ES Regulation.

However, the Bill promotes the right as the amendments ensure that a person is not tried or punished more than once for the same offence by omitting the existing offence in the ES Regulation. The Bill provides further clarity about the application of formerly gazetted notices through appropriate transitional arrangements.

Amendments to the work health and safety framework

Right to privacy and reputation (section 25 of the HR Act)

A person has a right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with and not to have their reputation unlawfully attacked. The scope of the right to privacy is broad. It protects privacy in the sense of personal information, data collection and correspondence, but also extends to an individual's private life more generally.

The Bill will amend the WHSOLA Act and the WHS Act to remove an additional avenue for health and safety representatives and WHS entry permit holders to request information contained in relevant notices from the regulator, before the relevant provision comes into effect on 29 March 2026. Relevant notices issued by WHS inspectors may contain personal information about workers or others at the workplace or may include commercial in confidence information.

The Bill promotes the right as it will provide greater privacy for workers, employers and others whose right to privacy may have otherwise been limited if certain information about them were captured and inadvertently released when the regulator fulfils requests from health and safety representatives and WHS entry permit holders.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 of the HR Act)

Amendments to the electrical safety framework

Property rights (section 24 of the HR Act)

(a) the nature of the right

A person has the right to own property alone or with others and should not be unlawfully or arbitrarily deprived of their property.

The term ‘deprived’ is not defined by the HR Act; however, deprivation in this sense is considered to include the substantial restriction on a person’s use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it). This right does not include a right to compensation if a person is deprived of their property.

The Bill limits the right to property as it will reaffirm the ability of the regulator to give a direction that prohibits the sale, installation or use of unsafe electrical equipment and for electricity entities to give notices for defective electrical equipment, thereby denying people the use or enjoyment of their property.

Unsafe equipment directions and electrical equipment defect notices have existed in the ES Regulation (and the previous regulation) since the ES Act was first introduced.

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

The purpose of the limitation is aligned with the ES Act’s purpose to eliminate the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.

The Bill achieves this by ensuring that appropriate and swift action can be taken to prohibit the sale, installation or use of unsafe electrical equipment, and to ensure the rectification of electrical equipment defects identified by electricity entities.

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

The limitation will assist in achieving the purpose of the Bill by expressly providing that the regulator can give a direction to prohibit the sale, installation or use of unsafe electrical equipment by gazette notice to apply this prohibition Queensland-wide.

It will also be achieved by clarifying the head of power for electricity entities to issue electrical equipment defect notices.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive means of achieving the purpose of the Bill to ensure continued electrical safety where property is deemed electrically unsafe or defective.

- (e) the balance between the importance of the purpose of the Bill, 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

The Bill will limit human rights as any person who sells, installs or uses any equipment that is subject to an unsafe equipment direction will be prohibited from selling, installing or using it. It is recognised that the impact of this provision may be far-reaching, and therefore, the Bill includes appropriate provisions to ensure that this is a decision made personally by the regulator after having sufficient regard to the circumstances and that this decision is appropriately communicated.

Similarly, electrical equipment defect notices will prevent electricity from being connected, or otherwise used, until a defect is rectified to the standard required by a qualified electrician.

While the Bill may limit property rights in that it deprives a person of the use or enjoyment of their property, the provisions in the Bill only apply to property where there is an electrical safety risk. Continuing to allow the use of such property presents a risk not only to that person, but also to others, and these risks may be life-threatening.

It is considered that continuing and clarifying these long-standing practices through the amendments in the Bill strikes a fair balance between protecting property rights but also eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.

- (f) any other relevant factors

Not applicable.

Right to a fair hearing (section 31 of the HR Act)

- (a) the nature of the right

The right to a fair hearing affirms the right of all individuals to procedural fairness and for any criminal charges or civil proceedings to be decided by a competent, independent and impartial court or tribunal following a fair, public hearing.

The Bill's amendment to clarify the head of power for electricity entities to issue electrical equipment defect notices under the ES Regulation will continue to limit human rights as these notices are currently not subject to an internal or external review under the ES Act, noting broader matters relating to internal and external review provisions will be clarified in consultation with electricity entities as part of the sunset review of the ES Regulation.

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

Under section 29 of the ES Act, electricity entities have duties to ensure that their works are electrically safe and are operated in a way that is electrically safe. This includes a requirement that they inspect, test and maintain the works.

Generally, an electricity entity will issue an electrical equipment defect notice when they are undertaking their duties by attending a property to inspect an electrical installation and identify a defect e.g. a damaged power outlet or an outdated switchboard at a residential property. Although electrical safety inspectors are also able to issue these notices, practically, the majority are issued by Queensland's electricity entities due to their active role providing safe, reliable and efficient energy services throughout the state.

Electrical equipment defect notices are currently only subject to internal and/or external review if issued by an electrical safety inspector.

The Bill seeks to only clarify the head of power issue and not enliven review provisions for an electrical equipment defect notice given by an electrical entity. Broader matters relating to internal and external reviews will be resolved in consultation with electricity entities as part of the sunset review of the ES Regulation which must be completed by 31 August 2026.

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

The Bill will not impose a limitation, but will instead continue a long-standing practice for electrical equipment defect notices issued by electricity entities not to be subject to review.

There is no intention to change or extend the scope of this practice, and limiting the right to a fair hearing is necessary to maintain the status quo and eliminate the human cost of death, injury and destruction potentially caused by electricity.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

It may be possible to include a right of internal and/or external review, such as to amend the ES Regulation to ensure notices issued by electricity entities are treated the same as those issued by an electrical safety inspector. However, this administrative amendment is intended only to clarify an existing regulation-making power issue, and broader matters relating to internal and external review provisions will be clarified in consultation with electricity entities as part of the sunset review of the ES Regulation, which must be completed by 31 August 2026.

- (e) the balance between the importance of the purpose of the Bill, 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

Rights of review ensure accountability and transparency that notices are being issued in accordance with the ES Act and ES Regulation.

However, the purpose of the ES Act is to eliminate the human cost of death, injury and destruction potentially caused by electricity. It is critically important to the electrical safety framework that defects are identified and rectified as soon as possible. Protecting human life and preventing damage to property from electricity are, of themselves, fundamental human rights that should not be outweighed by the right of a person to seek procedural fairness.

To strike a fair balance between these competing rights, it is considered that maintaining the long-standing practice of limiting the right to a fair hearing is appropriate in this circumstance.

- (f) any other relevant factors

Introducing a right for a person to seek an internal and/or external review for an electrical equipment defect notice issued by an electricity entity may be explored as part of a comprehensive sunset review of the ES Regulation.

This review, and any potential improvements to ensure the future electrical safety regulation is aligned with human rights, will be completed on or before the current ES Regulation's expiry on 31 August 2026.

Right to protection against retrospective criminal laws (section 35 of the HR Act)

- (a) the nature of the right

The right to protect against retrospective criminal laws affirms that a person must not be found guilty of an offence for conduct that was not an offence at the time it was engaged in. This prohibits retrospective criminal laws and also reflects the duty of states to ensure all criminal offences are defined precisely by law.

The Bill clarifies the validity of electrical equipment defect notices issued in good faith by electricity entities since 2002. To achieve this, the Bill retrospectively validates these notices which may limit this human right.

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

It is a long-standing practice for electricity entities to issue electrical equipment defect notices under both the current and former ES Regulations.

Section 210 of the ES Act includes regulation-making powers, including to provide for prescribing ways of discharging electrical safety duties and ensuring the electrical safety of persons or property. Although the scope of these regulation-making powers is broad, there is no specific power to prescribe the ability for electricity entities to issue electrical equipment defect notices.

Without this specificity, an electrical equipment defect notice may be challenged on the basis it was issued without property authority, potentially voiding the notice and any compliance or enforcement action taken against a person for non-compliance.

Electricity entities have issued electrical equipment defect notices in good faith of there being a sufficient regulation-making power since the ES Act (and the relevant regulation) was first introduced in 2002. Similarly, homeowners and businesses have acted to ensure their property is electrically safe by complying with these defect notices. Retrospectively validating these notices provides certainty that the notices were properly issued, but it also may be viewed that it limits the right to protect against retrospective criminal laws as it will also confirm that any compliance or enforcement taken in the past, or potentially in the future, is valid.

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

The limitation will achieve its purpose by providing certainty about the status of electrical equipment defect notices issued by electricity entities since the ES Act commenced in 2002.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

No less restrictive and reasonably practicable ways have been identified to provide the necessary certainty for clarifying the regulation-making power and the validity of notices given to date.

However, the retrospective validation of electrical equipment defect notices is limited in its application and is only to avoid doubt and to confirm the long-standing practice of electricity entities giving these notices. The Bill does not introduce any offences or in any way extend the existing offence in section 74 of the ES Regulation to any persons other than those who otherwise would have been captured if a specific power had been introduced in 2002.

- (e) the balance between the importance of the purpose of the Bill, 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

The Bill's purpose for this amendment is to ensure the regulation-making power is specific for contemporary drafting practices and to ensure a long-standing practice continues. Validating existing electrical equipment defect notices, and ensuring ongoing and effective compliance with these notices, is integral to achieving this purpose.

Although the right to protect against retrospective criminal laws may be limited, it was always intended that persons who fail to comply with an electrical equipment defect notice may be subject to enforcement action. The Bill does not change this.

On balance, having regard to the extent of the limitation to the right, the importance of achieving the purpose is considered to outweigh any potential adverse impact that may be caused.

- (f) any other relevant factors

The retrospective validation of notices applies from the date of commencement. This means that any notices issued by an electricity entity in good faith and in compliance with the ES Regulation from the date of introduction of this Bill will also be validated on passage of the Bill.

Amendments to the work health and safety framework

Freedom of expression (section 21 of the HR Act)

- (a) the nature of the right

The right to freedom of expression affirms the right of all individuals to hold an opinion without interference and to seek, receive and express information and ideas. The forms of protected expression are broad, and include expression that is oral, written, print, art or in any other medium. The right to freedom of expression also incorporates a right to freedom of information. In particular, it includes a right to access government-held information, and an obligation on government to disclose information.

The Bill limits the right to freedom of expression as it will remove an additional avenue for health and safety representatives and WHS entry permit holders to request information contained in relevant notices from the regulator (noting this provision had not yet come into effect).

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

The purpose of the limitation on the freedom of expression is to remove an unanticipated administrative burden of the regulator and to re-align Queensland with other states and territories.

The relevant provision contains insufficient safeguards in relation to the number of requests that can be made, the basis for making requests, and constraints on how far back the information can be sought. The process for the regulator releasing this information is not suitable for automating, and all notices requested would need to be manually reviewed to ensure personal information or commercial in confidence information is not unintentionally released.

To address the unanticipated administrative burden, the Bill omits the provision before it commences, which also re-aligns Queensland with other states and territories. This omission in no way changes existing rights to information under the WHS Act. Health and safety representatives and WHS entry permit holders will continue to be entitled to rely on existing mechanisms to access WHS information under the WHS Act for workers they represent.

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

Removing the additional avenue for health and safety representatives and WHS entry permit holders to request information contained in relevant notices from the regulator achieves the purpose of the Bill to reduce the administrative burden of the regulator and to re-align Queensland with other states and territories.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The alternative is to retain the additional avenue for health and safety representatives and WHS entry permit holders to request information in relevant notices from the regulator, and to introduce safeguards to manage the administrative burden as a result of the information sharing provision. However, this approach would mean Queensland remains out of step with other states and territories and would still result in additional administrative requirements for the regulator to fulfill, which risks diverting limited resources from the regulator's core WHS functions.

The benefit of retaining the additional information sharing avenue is also considered minimal given the existing mechanisms in place for health and safety representatives and WHS entry permit holder to access and receive certain information under the WHS Act.

Therefore, removing the additional information sharing avenue is considered the most effective and reasonably available way to achieve the purpose of the Bill.

- (e) the balance between the importance of the purpose of the Bill, 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

Removing the additional avenue for health and safety representatives and WHS entry permit holders to request particular information in relevant notices from the regulator will not impact the existing information sharing mechanisms currently available to health and safety representatives and WHS entry permit holders under the WHS Act. Additionally, the provision has not yet commenced and, therefore, no rights currently exist and the potential limitation was to a future right.

On balance, taking into account the nature and extent of the limitation on the freedom of expression and that the provision has not yet commenced, the importance of the purpose of the Bill outweighs the limitation on human rights.

- (f) any other relevant factors

Not applicable.

Conclusion

In my opinion, the Bill is compatible with human rights under the HR Act because it limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

Jarrold Bleijie MP
Deputy Premier
Minister for State Development, Infrastructure and Planning
Minister for Industrial Relations

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