

Corrective Services (Parole Board) Amendment Bill 2025

Statement of Compatibility

FOR

Amendments during consideration in detail to be moved by the Honourable Laura Gerber MP

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, the Honourable Laura Gerber MP, Minister for Youth Justice and Victim Support and Minister for Corrective Services, make this statement of compatibility with respect to amendments to be moved during consideration in detail of the Corrective Services (Parole Board) 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 amendments

The amendments to be moved during consideration in detail of the Bill seek to amend the *Transport Infrastructure Act 1994* (TIA) to:

- reduce administrative burden and expense when making declarations about tolls, charges or payment arrangements in the future, by allowing the Minister to make a declaration about only one element of tolling arrangements;
- improve the effectiveness and efficiency of declaring tolls, to be flexible and responsive to the needs of government and broader economic impacts;
- remove a significant administrative burden to more easily facilitate and streamline delivery of necessary upgrade projects on the Gateway and Logan Motorways; and
- make legislative requirements for tolling arrangements consistent across the Queensland toll road network.

Human Rights Issues

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

The following human rights protected under the HR Act may be limited by the proposed amendments:

- right to recognition and equality before the law (section 15 of the HR Act)
- right to freedom of movement (section 19 of the HR Act)
- property rights (section 24 of the HR Act)

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 *Human Rights Act 2019*)

Right to recognition and equality before the law (section 15)

(a) the nature of the right

The right to recognition and equality before the law provides that every person has the right to recognition as a person before the law, that every person is equal before the law and that laws should not be discriminatory. Section 7 of the *Anti-Discrimination Act 1991* sets out attributes that may form the basis of prohibited discrimination.

This right may be limited to the extent that the amendments to the TIA retain a power to impose a fee for service on toll road users through tolls and charges. The requirement to pay a toll or charges for driving on a toll road may adversely and disproportionately impact financially disadvantaged sectors of the community.

(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 imposed on the right to equality is to support the efficient operation of the Queensland toll road network, which supports safety, reliability and connectivity of the Queensland road network.

Tolls and charges, which are only applied to toll roads, provide consistent obligations for all vehicles on those toll roads, and the amount of the toll payable by a driver depends on the type of vehicle and whether or not drivers have an existing arrangement to pay tolls. Tolls and charges are not levied based on the personal attributes of individuals using the toll road.

(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

Any limit on the right to recognition and equality is for the efficient operation of the Queensland toll road network. A person whose individual financial circumstances mean they would struggle to be able to pay a toll or charges has the same opportunity as all other drivers to:

- use alternative roads to avoid the financial impact of a toll; or
- make a payment arrangement to pay the toll to avoid the financial impact of the charges.

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

There is no less restrictive way to achieve the purpose of the TIA amendments, which is to ensure transparency and accountability in setting tolls, charges and payment arrangements.

- (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

For the reasons outlined above, any potential human right impact is considered reasonable and justified. There is a benefit to ensuring equitable operation of the Queensland road network where tolls, charges and payment arrangements are not applied on the basis of the personal attributes of individuals who use those roads.

While tolls and charges have a comparatively greater impact upon persons of lesser means, alternative routes exist which do not require the payment of a toll or charges.

Those heavy commercial vehicles that are restricted from using other parts of the road network because of their size and weight may be unable to avoid the additional expense of using a toll road. In those cases, commercial operators can pass on the toll charges to their customers who benefit from the increased connectivity and time savings that come from using toll roads.

Right to freedom of movement (section 19)

- (a) the nature of the right

The right to freedom of movement provides that every person lawfully within Queensland has the right to move freely within Queensland and to enter and leave it, and every person has the freedom to choose where to live.

This right may be limited by the amendments to the TIA that preserve existing barriers to access toll roads by those who cannot afford tolls or charges.

- (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

This limitation on the right to freedom of movement is necessary to ensure the efficient operation of the entire Queensland road network. Toll roads provide a mechanism to fund additional road infrastructure, using private sector investment, earlier than would have been possible if dependent solely on public funds.

Tolling is a user-pays system. A driver is not obligated to use a toll road and may choose to travel along the free alternative routes available.

- (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

Any limit on the right to freedom of movement is necessary to ensure the efficient operation of toll roads and the Queensland road network, relieving congestion on other roads and accommodating Queensland's growth.

Alternative State-controlled and local government routes exist which do not require payment of a toll or charges and which may be used by individuals who wish to move within, to, or from, Queensland.

Those heavy commercial vehicles that are restricted from using other parts of the road network because of their size and weight may be unable to avoid the additional expense of using a toll road. In those cases, commercial operators can pass on the cost of tolls to their customers who benefit from the increased connectivity and time savings that come from using toll roads.

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

There is no less restrictive way to achieve the purpose of the amendments to the TIA, which is to ensure transparency and accountability in setting tolls, charges and payment arrangements.

(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

For the reasons outlined above, any potential human rights impact is considered reasonable and justified. Tolls charged to individuals who use a toll road fund the construction of, and upgrades to, toll roads, as well as the continued operation and maintenance of toll roads. The cost to individuals who use toll roads is balanced against the benefit to all Queenslanders of transport network efficiency, safety and connectivity.

Right to property (section 24)

(a) the nature of the right

Property rights reflect that all persons have the right to own property alone or in association with others (section 24(1) of the HR Act), and that a person must not be arbitrarily deprived of the person's property (section 24(2) of the HR Act). Property includes a business and a motor vehicle.

Property rights are limited where a person is arbitrarily deprived of the person's property. In the human rights context, arbitrarily is taken to mean capriciously, unpredictably, unjustly and unreasonably, in the sense of it not being proportionate to a legitimate policy objective.

Property rights may be limited by these amendments to the extent that the amendments preserve a fee for service, on toll road users, through tolls and charges which may impact the financial viability of a business which relies on travel or transportation, or impact the financial cost of operating a motor vehicle.

However, levying a toll or charges is not arbitrary on the basis that levying tolls and charges is authorised under the TIA and reflects a user-pays system.

(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 any limitation on property rights is to ensure the efficient operation of toll roads and the Queensland road network, by relieving congestion on other roads and accommodating Queensland's growth.

Alternative State-controlled and local government routes exist which do not require payment of a toll or charges and which may be used by individuals who wish to access particular areas or services.

(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

Any limit on property rights is necessary to promote the efficient operation of toll roads and the Queensland road network. Toll roads increase capacity of the overall road network and relieve congestion on, and reduce maintenance of, other (non-toll) roads in the network.

Alternative State-controlled and local government routes exist which do not require payment of a toll or charges and these may be used by individuals who wish to access particular areas or services.

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

There is no less restrictive way to achieve the purpose of the amendments to the TIA which is to ensure transparency and accountability in setting tolls, charges and payment arrangements.

(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

For the reasons outlined above, the limitation on property rights is not arbitrary.

Any other potential human right impact is considered reasonable and justified. There is a benefit to Queensland from ensuring that maintenance and operation of toll roads is cost-effective for the State. Toll roads also increase capacity of the overall road network and relieve congestion on, and reduce maintenance of, other (non-toll) roads in the network.

Conclusion

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with human rights under the *Human Rights Act 2019* because the limits they impose on human rights are reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

Laura Gerber MP
Minister for Youth Justice and Victim Support and Minister for Corrective Services