

Land (COVID-19 Emergency Response— Waiver and Deferral of Rents and Instalments) Regulation 2020

Human Rights Certificate

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

In accordance with section 41 of the *Human Rights Act 2019*, I, Dr Anthony Lynham MP, Minister for Natural Resources, Mines and Energy provide this human rights certificate with respect to the Land (COVID-19 Emergency Response—Waiver and Deferral of Rents and Instalments) Regulation 2020 (COVID-19 Regulation) made under the *Land Act 1994* (Land Act).

In my opinion, the COVID-19 Regulation, as tabled in the Legislative Assembly, is 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 Subordinate Legislation

The purpose of the COVID-19 Regulation is to prevent holders of a state land tenure from falling into financial distress or bankruptcy because of the requirement to pay rent to the State.

The COVID-19 Regulation will establish a power and framework for the Minister to provide temporary relief from the necessity to pay rent or instalments under the Land Act, to mitigate the financial impact arising from the COVID-19 pandemic.

Discretion is provided for the Minister to issue additional waivers or extend the application of a waiver for additional periods and to other tenures under the COVID-19 Regulation. These powers will give flexibility to swiftly respond to evolving socioeconomic conditions caused by the pandemic.

The government's policy under ordinary circumstances is that waiver of rent is not appropriate under the Land Act. Forgiveness of unpaid rents, however, may be sought under the *Financial Accountability Act 2009* if tenure holders are experiencing financial distress and unable to pay an accrued rent debt. Given the exigent circumstances presented by the COVID-19 pandemic, this policy position is being suspended and replaced with the temporary Ministerial power to waive rents for tenures under the Land Act.

The intent of the initial waiver is to assist private third party businesses and their sub-lessees. Local, state and federal government entities, statutory bodies and government-owned corporations are not be eligible for rent relief granted by the State.

Human Rights Issues

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

Protecting the health and safety of the public is a fundamental responsibility of government and is consistent with a free and democratic society based on human dignity, equality and freedom. This includes measures to ensure businesses can continue to operate despite the restrictions and isolation measures imposed in response to the COVID-19 pandemic undertaken by the Australian and Queensland governments.

On 23 March 2020, the Queensland Government announced a \$4 billion package to support health, jobs, households and Queensland businesses that included providing “rent relief for businesses who rent premises from the state government”.

The rent relief will be provided to holders of a lease, permit to occupy and licence (referred to as a tenure) under the Land Act, through a waiver of rent for a period of 6 months commencing 1 April 2020. Not all Land Act tenures are held by individuals. The waiver will apply to all eligible tenure holders irrespective of whether the tenure is held by an individual or a company.

Tenure holders who have already paid their rent for the remaining of the 2019/2020 financial year will be given a pro rata refund for the waiver period. Quarterly invoices will not be issued during the waiver period.

Conclusion

I consider that the Land (COVID-19 Emergency Response—Waiver and Deferral of Rents and Instalments) Regulation 2020 is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

DR ANTHONY LYNHAM MP
MINISTER FOR NATURAL RESOURCES, MINES AND ENERGY

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