

# Health Transparency (Postponement) 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, the Honourable Steven Miles MP, Deputy Premier and Minister for Health and Minister for Ambulance Services provide this human rights certificate with respect to the *Health Transparency (Postponement) Regulation 2020* made under the *Health Transparency Act 2019*.

In my opinion, the *Health Transparency (Postponement) Regulation 2020*, 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 *Health Transparency Act 2019* is to establish a legislative framework for collecting and publishing information about public and private hospitals and residential aged cared facilities and amend the *Health Ombudsman Act 2013* to implement recommendations of the Health, Communities, Disability Services and Domestic and Family Violence Committee's *Inquiry into the performance of the Health Ombudsman's functions pursuant to section 179 of the Health Ombudsman Act 2013*.

The Health Transparency Act was passed by Parliament on 28 November 2019 and received Royal Assent on 5 December 2019.

Section 2 of the Health Transparency Act provides that certain provisions of the Act commence on a day to be fixed by proclamation. In accordance with section 2 the Act, a number of provisions commenced by proclamation on 1 March 2020 (SL 2020 No. 21). The provisions which commenced establish a legislative framework to collect and publish information about public and private hospitals and residential aged care facilities.

The postponement regulation extends the automatic commencement of the remaining provisions of the Health Transparency Act by one year. The remaining provisions amend the Health Ombudsman Act to introduce a joint consideration process between the Office of the Health Ombudsman and the Australian Health Practitioner Regulation Agency ('Ahpra') for complaints about registered practitioners.

The Health Ombudsman will be required to notify Ahpra of a complaint about a registered practitioner, including full details to allow Ahpra to consider the complaint. Ahpra will have five business days to provide its initial view to the Health Ombudsman about how the complaint should be dealt with, such as whether it believes the matter should be referred to Ahpra or retained by the Health Ombudsman.

## Human Rights Issues

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

The postponement regulation does not raise any human rights issues.

### Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

As the postponement regulation does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 13 of the *Human Rights Act 2019*.

## Conclusion

I consider that the *Health Transparency (Postponement) Regulation 2020* is compatible with the *Human Rights Act 2019* because it does not raise any human rights issues.

**THE HONOURABLE STEVEN MILES MP**  
DEPUTY PREMIER  
and MINISTER FOR HEALTH  
and MINISTER FOR AMBULANCE SERVICES

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