

Electoral (Provision of Information on Electoral Rolls) Amendment Regulation 2021

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 Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Electoral (Provision of Information on Electoral Rolls) Amendment Regulation 2021* (Amendment Regulation) made under the *Electoral Act 1992* (the Electoral Act).

In my opinion, the Amendment 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

Section 61(2) of the Electoral Act provides that the Electoral Commission of Queensland (ECQ) may give a copy, in electronic form, of the most recent version of the entire, or part of the, electoral roll for any electoral district, to an entity prescribed under a regulation that is a department or State public authority. This may occur on request, without charge and for a purpose prescribed under a regulation.

The Amendment Regulation will allow electoral roll information to be provided by ECQ to Queensland Health to be used for the purpose contacting persons in Queensland relating to Australian COVID-19 vaccination arrangements. Specifically, it is intended that persons will be identified and invited to receive a COVID-19 vaccine based on the phases of the vaccine rollout strategy.

The rollout of COVID-19 vaccinations will be guided by the Australian COVID-19 Vaccination Policy, which sets out the roles and responsibilities of the Australian Government and state and territory governments to implement a COVID-19 vaccine program in Australia from early 2021. The *Health (Drugs and Poisons) Regulation 1996* provides for the development of a COVID-19 vaccination code which will set out operational requirements for providing COVID-19 vaccination services.

A 'silent elector' is defined in schedule 1 of the Electoral Act as an elector to whom section 58(5) of the Electoral Act applies, or whose address has been excluded from the electoral roll under an arrangement under section 62 because of section 104 of the *Commonwealth Electoral Act 1918* (Cth). Section 58(5) of the Electoral Act, which is currently relied upon for the purposes of determining who is a silent elector on the electoral roll for a Queensland electoral district, provides that, if the ECQ is satisfied that the inclusion on a roll of a person's address would place at risk the personal safety of the person or another person, the person's address must not be set out in the publicly available part of the roll. In view of the safety risks associated with electoral roll information related to silent electors, information relating to them is not to be provided by the ECQ to Queensland Health under the Amendment Regulation. Because it is unnecessary to be provided for the prescribed purpose, the date of an elector's enrolment will also not be able to be provided.

Human Rights Issues

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

The Amendment Regulation engages the right to privacy and reputation (section 25 of the *Human Rights Act 2019*).

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

Right to privacy and reputation

(a) the nature of the right

The right to privacy and reputation protects the individual from all interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation. It protects privacy in the sense of personal information, data collection and correspondence but also extends to an individual's private life more generally. Only lawful and non-arbitrary intrusions may occur upon privacy, family, home, correspondence and reputation. Arbitrary interference includes when something is lawful, but also unreasonable, unnecessary or disproportionate.

The Amendment Regulation limits the right to privacy and reputation because it allows the ECQ to provide the entire electoral roll for an electoral district, excluding information related to silent electors and date of enrolment, to Queensland Health for the prescribed purpose of contacting persons in Queensland in relation to Australian COVID-19 vaccination arrangements. Electoral roll information about electors that may be provided to Queensland Health is an elector's surname and given names, address (which may include their postal address in addition to their residential address), sex, occupation, date of birth and an identifying number.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation of the right to privacy and reputation, by allowing electoral roll information to be provided by the ECQ to Queensland Health for the prescribed purpose, is to enable persons in Queensland to be contacted in relation to COVID-19 vaccination arrangements. Identifying and communicating with persons to invite them to receive a COVID-19 vaccine, based on phases of the vaccine rollout strategy, will support the efficient administration of the vaccination program in a manner consistent with its rollout phases and increase the awareness of those contacted about the vaccination program.

Under the COVID-19 vaccination policy, supplies of vaccines will initially be limited and directed towards priority groups. Allowing the ECQ to provide information to Queensland Health will assist in identifying those priority groups and enable them to be contacted.

An important feature of the COVID-19 vaccination is that it will not only protect each immunised individual who has received the vaccine, but also help others by assisting to control the disease in the community. Immunisation triggers the immune system to fight the disease the person is vaccinated for. If a vaccinated person comes in contact with the disease, their immune system is able to respond more effectively. This either prevents the disease from developing or reduces its severity. Herd immunity makes the spread of disease from person to person less likely, reducing transmission rates and protecting those who may not be able to be vaccinated themselves. A high take-up rate for the COVID-19 vaccine will increase the likelihood of achieving a sufficient level of herd immunity, to assist in keeping the most vulnerable members of the community safe.

The limitation, by facilitating potential contact with persons in Queensland about COVID-19 vaccination arrangements will in turn support the COVID-19 vaccination program, which is intended to assist in keeping the members of the community safe and thereby promote the right to life under section 16 of the *Human Rights Act 2019*. The limitation is therefore consistent with the values of a free and democratic society.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

The limitation on the right to privacy and reputation helps to achieve the purpose by enabling the ECQ to provide electoral roll information to Queensland Health as an information source for contacting persons in Queensland about COVID-19 vaccination arrangements including those in priority groups (such as those cohorts including persons based on age). Electoral roll information is limited to those persons who are entitled to enrol under the Electoral Act. This means it will not be exhaustive in identifying those persons who are eligible to receive COVID-19 vaccination and therefore may be used in combination with other sources of information that are able to be accessed by Queensland Health for the identified purpose.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

There are no less restrictive and reasonably available ways to achieve the purpose. The electoral roll is presently considered a critical information source for the Queensland Health to achieve the purpose.

Safeguards have been incorporated into the Amendment Regulation to restrict the impact of the limitation. In particular, the proposal excludes information in relation to a silent elector being provided to Queensland Health. This mitigates the personal safety risks associated with providing information about such electors. Further, the proposal excludes the date a person is enrolled on the electoral roll from being provided to Queensland Health as it is not necessary for the purpose of contacting persons in relation to COVID-19 vaccination arrangements. Under the *Information Privacy Act 2009*, Queensland Health must comply with the National Privacy Principles which include specific limits on use of disclosure of personal information, including requirements to not use or disclose information about an individual for a purpose other than the primary purpose of collection unless stated circumstances apply, and to take reasonable steps to protect personal information held from misuse, loss and unauthorised access, modification or disclosure.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

On balance, taking into account the nature and extent of the limitation on the right to privacy and reputation, I consider that the purpose of enabling persons in Queensland to be contacted in relation to COVID-19 vaccination arrangements outweighs the negative impact that the disclosure required has on the right to privacy and reputation.

(f) any other relevant factors

Not applicable.

Conclusion

I consider that the *Electoral (Provision of Information on Electoral Rolls) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does limit, restrict or interfere with a human right, but that limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

SHANNON FENTIMAN MP
Attorney-General and Minister for Justice
Minister for Women and Minister for the Prevention of Domestic and Family Violence

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