

# Community Based Sentences (Interstate Transfer) 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* (HR Act), I, Mark Ryan, Minister for Police and Corrective Services and Minister for Fire and Emergency Services provide this human rights certificate with respect to the *Community Based Sentences (Interstate Transfer) Regulation 2021* (the Regulation) made under the *Community Based Sentences (Interstate Transfer) Act 2020* (the Act).

In my opinion, the Regulation, as tabled in the Legislative Assembly, 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 Subordinate Legislation

The Act received assent on 26 February 2020 and automatically commenced on 27 February 2021.

The objective of the Regulation is to prescribe matters to support the implementation of the Act and Queensland's participation in a national scheme for the transfer and enforcement of community based sentences between Australian jurisdictions.

The Regulation sets out, for each relevant Queensland community based sentence under the *Penalties and Sentences Act 1992*, which interstate sentences are declared to correspond for the purpose of section 13(2)(b) of the Act.

The Regulation prescribes that the local authority (Commissioner for Queensland Corrective Services (QCS) or delegate) may have regard to the safety of an offender's victim/s or victim/s family member when deciding whether to register an interstate sentence.

The Regulation also prescribes the required details relating to the offender and the interstate community based sentence for the purpose of registering the sentence in the local register. The local register is held by QCS and is not publicly available.

Further, the Regulation recognises all Australian states and territories as participating jurisdictions for the purpose of the Act.

## Human Rights Issues

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

In my opinion, the human rights relevant to the Regulation are freedom of movement (section 19), the right to privacy and reputation (section 25), and the protection of families and children (section 26).

The Regulation does not limit any rights protected under the HR Act. Rather, it protects and promotes the right to freedom of movement and the protection of families and children.

**Freedom of movement** (HR Act, section 19): the right to freedom of movement provides that every person lawfully in Queensland has the right to move freely within Queensland and to enter and leave it, and to choose where to live. This right means that public entities cannot act in a way that would unduly restrict freedom of movement.

**Protection of families and children** (HR Act, section 26): the protection of families and children recognises that families are the fundamental group unit of society and entitled to be protected by society and the State.

The Regulation prescribes all Australian states and territories as participating jurisdictions for the purpose of the Act. This promotes the right to freedom of movement and protection of families and children by providing the ability for an offender to request to have their sentence transferred by registration and enforced in Queensland or interstate under the Act, despite serving a community based sentence that would otherwise limit movement to Queensland or the State in which it was imposed. This can support an offender's connection with family and children, effective rehabilitation, reintegration, and supervision.

**Right to privacy and reputation** (HR Act, section 25): the right to privacy has a broad scope, but at the core is about preserving personal autonomy and dignity.

The Regulation engages the right to privacy by listing what are 'required details' for the purpose of the Act. The details listed in the Regulation are required to be able to register an interstate sentence in Queensland, and efficiently and effectivity manage the sentence as if it is a Queensland sentence. This includes details of the offender and their sentence. The local register is held by QCS and is not publicly available.

## Conclusion

I consider that the Regulation 2021 is compatible with the HR Act because it raises a human rights issue but does not limit human rights.

**THE HONOURABLE MARK RYAN MP**  
Minister for Police and Corrective Services and  
Minister for Fire and Emergency Services